



VILLAGE OF  
**PORT CHESTER**

222 Grace Church Street, Port Chester, New York 10573

**SPECIAL MEETING AGENDA MEMO**

**Department:** Office of the Village Manager  
**Department:** Office of the Village Attorney  
**Department:** Planning and Development Department

**BOT Meeting Date:** 4/26/2016

**Item Type:** Workshop

<b>Sponsor's Name:</b>	Christopher D. Steers, Village Manager
<b>Sponsor's Name:</b>	Anthony Cerreto, Village Attorney
<b>Sponsor's Name:</b>	Eric Zamft, Director of Planning & Economic Development

Description	Yes	No	Description	Yes	No
Fiscal Impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Public Hearing Required	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Funding Source:			BID #		
Account #:			<b>Strategic Plan Priority Area</b>		
			Redeveloping the United Hospital Site		
	<b>Yes</b>	<b>No</b>			
Agreement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>Manager Priorities</b>		
Strategic Plan Related	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Planning & Zoning		

**Agenda Heading Title**  
*(Will appear as indicated below on Agenda)*

Starwood/United Hospital Final Environmental Impact Statement: Economic Assessment/Zoning Workshop

**Summary**

The Board of Trustees serves as the Lead Agency under the State Environmental Quality Review Act (SEQRA) for PC 406 BPR LLC and PC 999 High Street Corp.'s (the "Applicant") proposal to redevelop the United Hospital site (the "Proposal").

In that role as Lead Agency, the Board has requested an interactive workshop to discuss the proposed zoning and economic assessment of the Proposal.

### Economic Assessment

In advance of the workshop, the Village's consulting environmental consultant, AKRF, has prepared a memorandum providing an evaluation of specific assertions made by (the Applicant) about the economic viability of the Proposal. The assertions were made in the Project's Draft Environmental Impact Statement (DEIS), and include the Applicant's stated need for development density above what is currently allowed at the former United Hospital site, as well as the Applicant's stated need for a Payment in Lieu of Taxes (PILOT) Agreement. The memorandum also presents AKRF's evaluation as to whether the \$1 million dollar bonus density fee proposed by the Applicant in the DEIS is an appropriate fee amount for the requested development density on the Project Site.

It is anticipated that at the workshop, AKRF will present the evaluation and findings put forth in their memorandum. The Board will then have an opportunity to discuss the evaluation and ask any questions to the Applicant, consultants, or staff.

### Proposed Zoning

In order to implement the Proposal, the zoning regulations governing the Project Site need to be amended. In the DEIS, the Applicant proposed two potential courses of action. The first option was the creation of a Southern Gateway Mixed Use Overlay Zoning District (the "Overlay District"). The second option was to revise the existing PMU Zoning District. The Applicant, based upon comments from Village staff and its consultants, has prepared revised amendments to the PMU Zoning District and will present the proposed amendments to the Board. The Board will then have an opportunity to discuss the evaluation and ask any questions to the Applicant, consultants, or staff. The Department of Planning and Economic Development prepared a memorandum that highlights the key aspects of the proposed zoning amendments.

Note that, Mark Chertok, outside special counsel to the Village, will also be in attendance and will be available to answer questions during the workshop.

<b>Attachments</b>
<ul style="list-style-type: none"><li>• AKRF Economic Evaluation</li><li>• Department of Planning and Economic Development Memorandum</li><li>• Existing PMU Zoning District Text</li><li>• Proposed Zoning Text Amendments to the PMU District</li></ul>



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## Memorandum

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**To:** Christopher Steers, Village Manager, Village of Port Chester  
Eric Zamft, Director of Planning, Village of Port Chester  
Mark Chertok, Esq., Village Special Counsel, Sive, Paget & Riesel

**From:** John Neill, Christian Michel and Peter Feroe

**Date:** April 19, 2016

**Re:** Economic Analysis Findings – United Hospital Redevelopment Project

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This memorandum presents AKRF's evaluation of specific assertions made by Starwood (the Applicant) about the economic viability of the United Hospital Redevelopment Project (the Project)<sup>1</sup>. The assertions were made in the Project's Draft Environmental Impact Statement (DEIS), and include the Applicant's stated need for development density above what is currently allowed at the former United Hospital site (the Project Site), as well as the Applicant's stated need for a Payment in Lieu of Taxes (PILOT) Agreement. This memorandum also presents AKRF's evaluation as to whether the \$1 million dollar bonus density fee proposed by the Applicant in the DEIS is an appropriate fee amount for the requested development density on the Project Site.

### EXECUTIVE SUMMARY

AKRF evaluated the following assertions made by the Applicant related to the economic viability of their current Project proposal:

1. That the allowable density in the existing zoning code<sup>2</sup> does not provide for the development density necessary to create a viable project given their requested mix of uses proposed; and
2. That savings to the Applicant associated with the use of a PILOT Agreement are vital to the Project's economic feasibility, again based on their requested density and mix of uses proposed.

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<sup>1</sup> In this memorandum "the Project" or "Proposed Project" refers to the development program advanced by the Applicant in the United Hospital Redevelopment Draft Environmental Impact Statement (DEIS): 230 units of age-restricted housing; 500 units of non-age-restricted housing; 90,000 square feet (sf) of retail; a 135-key limited service hotel; 217,000 sf of market-based office space; an approximately 1-acre open space; and 1,380 parking spaces in structured, surface and on-street configurations.

<sup>2</sup> The Project Site is within the PMU zoning district, which allows for a maximum of 0.8 FAR. The maximum FAR is further apportioned based on individual uses.

AKRF was also tasked with estimating an appropriate fee for the density bonus sought by the Applicant as part of their proposed zoning.

### ***ANALYSIS APPROACH***

Over an approximately four-month period, AKRF staff—led by members of AKRF’s Economic and Real Estate Advisory Services practice—reviewed confidential Project financial models and supporting data provided by the Applicant.<sup>3</sup> AKRF’s evaluation of the Applicant’s financial claims entailed the following steps:

1. **Test the mechanics of the financial models provided by the Applicant.** AKRF worked to ensure that the Applicant’s financial pro forma models functioned properly and that calculations in the models followed industry standards.
2. **Evaluate the reasonableness of the models’ assumptions.** Model assumptions such as market rents, construction costs, financing terms, and assessed value were compared to data available from comparable built projects or comparable project components within the lower Westchester County market.<sup>4</sup> For key assumptions, AKRF tested a reasonable range of variance to ensure that the Project’s forecasted returns were not misrepresented by assumptions.
3. **Establish thresholds for financial feasibility in the local market.** Based on the financial return metrics used by the Applicant in its Project financials (Yield on Cost<sup>5</sup> and Equity Multiple<sup>6</sup>), AKRF independently identified “feasibility thresholds” for these metrics using industry data on expected returns, including risk profiles for development in the lower Westchester County market. The “feasibility threshold” is the level of return projected to be needed in order to secure financing for the Project and successfully execute the Project. For purposes of this analysis, thresholds for financial feasibility were determined to be a Yield on Cost of approximately 6.5 percent, and an Equity Multiple of approximately 2.0.
4. **Determine whether the Project is financially viable at the density currently permitted in the PMU zoning district.** AKRF reviewed the Project’s financial pro forma against the financial pro forma of a development program with similar uses, but at the lesser density currently allowed by zoning. The financial returns exhibited in each model were tested using a reasonable range of assumptions for inputs including development cost, financing, operating costs, and rent revenues.
5. **Determine whether the Project needs financial support in the form of a PILOT Agreement in order to achieve threshold financial feasibility.** AKRF tested the financial returns of the Project against a number of PILOT Agreement scenarios, including no PILOT Agreement, the PILOT structure advanced by the Applicant in the DEIS, as updated in the FEIS, and a range of hypothetical

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<sup>3</sup> AKRF signed a non-disclosure agreement with the Applicant in order to obtain financial data needed to perform the analysis as the Applicant does not wish to disclose publicly some of the financial data. AKRF cannot disclose sensitive financial information as part of its reporting without prior consent from the Applicant. The Applicant’s review of AKRF’s analysis reporting was limited to issues of confidentiality; the Applicant was not provided opportunity to amend the analysis or its findings.

<sup>4</sup> There are few, if any, projects within the lower Westchester County market that contain the mix and density of uses proposed by the Applicant. Although projects with a more similar mix and density of uses exist outside of the lower Westchester County market, AKRF believes that it is more appropriate to review the Applicant’s modeling assumptions against construction and operations data from single-use projects within the local market, as this will more accurately reflect conditions expected of the Proposed Project despite its mixed-use character.

<sup>5</sup> Yield on Cost (YOC) is a ratio measurement of the annual return of a project/investment with stabilized Net Operating Income divided by total project cost.

<sup>6</sup> Equity Multiple (EM) is a ratio dividing the total net profit plus the maximum amount of equity invested by the maximum amount of equity invested.

PILOT structures allowable under the Village of Port Chester Industrial Development Agency's (PCIDA) Uniform Tax Exemption Policy (UTEP).

6. **Estimate an appropriate density bonus fee (if bonus density were to be granted).** In parallel with the task work described above, AKRF worked to identify a range of fee amounts appropriate for the density bonus sought by the Applicant as part of the proposed rezoning. AKRF employed a value creation methodology similar to the approach contained in the Village's existing incentive zoning program as set forth in §345-16 of the Village Code. AKRF also performed a land residual analysis as an alternative approach to establishing the incremental value of the additional density requested.

AKRF's review process included numerous meetings with representatives of the Village, technical support from representatives and agents of PCIDA, as well as an executive session with the Village Board of Trustees on January 19, 2016. At that executive session AKRF presented the findings of its preliminary analysis, responded to questions, and received requests for adjustments and supplements to the analysis.

AKRF staff also met on numerous occasions with the Applicant to discuss the structure of their pro forma models; the assumptions used in the financial models; and to coordinate requests for adjustments to the models so that AKRF could better assess the assertions made by the Applicant in the DEIS. Due to the confidential nature of some information reviewed by AKRF as part of this assignment, this memorandum was reviewed by the Applicant prior to publication in order to ensure that confidential information is not disclosed publicly.<sup>7</sup> The analysis and conclusions described in this memorandum, however, are AKRF's alone.

### ***ANALYSIS FINDINGS***

The following presents a summary of AKRF's principal findings.

1. **Mechanics of the Financial Models.** AKRF reviewed the Applicant's financial pro forma models for clarity and transparency; to ensure the models functioned properly both mechanically and mathematically; and to ensure that the models' calculations follow standards used in the industry.

The models were found to be mechanically sound. Concepts were organized and clearly presented. Calculations were accurate and reflected the intent of the modeler(s), and the correct formulas were applied to derive output. Some inconsistencies in the structure and presentation of data were identified and addressed; these were not considered to be deficiencies that compromised AKRF's ability to conduct its assessment. Throughout AKRF's review process, representatives of the Applicant were available to AKRF and were responsive in terms of working to address questions about the model and its functionality.

2. **Model Assumptions.** The Applicant's financial pro forma models used reasonable assumptions given local market conditions and the new, mixed-use product that is proposed. The models were not found to strategically overstate costs or understate potential revenues in an effort to show weak return on investment. For all key assumptions advanced by the Applicant, AKRF tested a reasonable range of values to ensure that the Project's forecasted returns were not misrepresented by the Applicant's assumptions.

The Applicant's land acquisition costs were not factored into the financial models, which is atypical for a pro forma model of this nature. The Applicant's stated rationale is that they view the land purchase as a cost that they would hope to recover at exit (i.e., upon sale of the property at a future date) rather than at the front end. The Applicant also wants to combat the notion that the Project's viability—and its need for density above that currently allowed and for a PILOT Agreement—is tied to the cost associated with the purchase of the property. This position was acceptable for purposes of AKRF's analysis because it is a conservative assumption; had the Applicant included the land

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<sup>7</sup> In some cases data presented as part of this memorandum is described as "about" or "above/below" a certain value. Data is presented in this manner in order to avoid disclosing confidential financial information.

purchase, it would have presented additional costs that would further erode the Project's viability as viewed from the perspective of a financial pro forma model.

AKRF's analysis found the Applicant's estimate of assessed value in the DEIS (\$130,479,680) to be at the low end of a reasonable range of likely values. Based on the assessed values of projects with comparable uses, AKRF estimates that the assessed value is likely to be between \$133 million and \$183 million.

3. **Financial Feasibility Thresholds.** Based on the financial return metrics used by the Applicant in its Project financials (Yield on Cost and Equity Multiple), AKRF independently identified "feasibility thresholds" for these metrics using projects with similar development risk profiles in the lower Westchester County market. The "feasibility threshold" is the level of return that would be required in order to secure financing for the Project and successfully execute the Project. Thresholds for financial feasibility were determined to be a Yield on Cost of approximately 6.5 percent, and an Equity Multiple of approximately 2.0.
4. **Project Need for Additional Density.** AKRF's analysis found that the allowable density in the existing code does not provide for the development density necessary to create a viable project given the mix of uses proposed.

AKRF reviewed the Applicant's financial pro forma for a 0.8 FAR Scenario that mimics the uses contemplated by the Applicant, but at a lesser 0.8 FAR density currently allowed by zoning. The scenario proportionately reduces the density of all uses with the exception of retail, which would remain as proposed (90,000 sf) as a ground-floor use. With development at a lesser density, most of the site preparation costs would remain the same, and vertical construction costs were assumed to be the same as the Proposed Project on a psf basis.

AKRF tested the 0.8 FAR Scenario model using a range of reasonable assumptions for construction costs and revenues. AKRF also tested the model assuming variation in PILOT fee payments and assuming reduced upfront development costs through the provision of unidentified grant(s) or other forms of funding. Under all scenarios the returns for the 0.8 FAR Scenario fell below the 6.5 percent feasibility threshold for YOC, and below the 2.0 threshold multiple for EM. In other words, the 0.8 FAR Scenario was not found to be financial feasible, as it would not generate returns that would make it a desirable investment.

5. **Project Need for a PILOT Agreement.** The Applicant's financial projections for a "No PILOT Scenario," vetted by AKRF, show that without a PILOT Agreement, the return ratios measuring financial feasibility for the Project would be well below minimum thresholds that investors would expect when investing in a comparable project. Similar to the exercise conducted for the 0.8 FAR scenario, AKRF tested the Applicant's No PILOT Scenario model by inputting a reasonable range of alternative cost and revenue assumptions and observing their effect on the YOC and EM. For all reasonable assumptions tested, the returns for the No PILOT Scenario continued to fall below the 6.5 percent feasibility threshold for YOC, and below the 2.0 threshold multiple for EM. In other words, the No PILOT Scenario was not found to be financially feasible, as it would not generate returns that would make it a desirable investment.

Absent new, unidentified, and substantial sources of grant funding for the Project, a reduction in property tax payments through a PILOT Agreement is necessary for the Project to be financially viable.<sup>8</sup> The net present value (NPV) of such funding would need to be comparable to the NPV of the PILOT savings, which as detailed below, is nearly \$17 million based on the PILOT Agreement described in the FEIS.

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<sup>8</sup> The Applicant does not anticipate that additional funding sources would be identified prior to the Village issuing findings on the FEIS. In addition, some funding sources could include requirements related to union labor that would diminish the value of the funding by increasing the Applicant's anticipated labor costs.

To better understand how the Project's viability and PILOT fees could be affected by assessed value and by different PILOT Agreement structure, AKRF modelled PILOT fees and amounts abated based on a range of potential assessed values ranging from \$133 million to \$183 million. The sensitivity analysis assumed a PILOT payment "ramp-up" equating to an abatement of 100 percent of tax payments for the first quarter of the PILOT term, 75 percent for the second quarter, 50 percent for the third quarter, and 25 percent for the fourth and final quarter. This structure is in keeping with the Uniform Tax Exemption Policy of the PCIDA, as discussed below. The results show that under any scenario, the Applicant receives substantial savings from paying a PILOT versus paying full property taxes over a 20-year timeframe. Paying full property taxes would generate over \$110 million (\$47 million NPV) of property taxes over 20 years. Paying a PILOT as proposed by the Applicant would result in significant savings to the Applicant of more than \$40 million over the life of a 20-year PILOT (\$17 million NPV).

However, when compared to the Applicant's proposed PILOT Agreement, the ramp-up PILOT payments for alternative scenarios run by AKRF would all result in lower total payments to the Village. Only ramp-up PILOT payments associated with the assessment of \$183 million would generate comparable non-discounted total tax payments (nearly \$65 million). The difference is even more pronounced when the NPV of payments are compared. Since the ramp-up scenarios are back-loaded (i.e., largest payments occur in the latest phases), the discounting effect is much more prominent. As a result, the PILOT Scenario 1 has an NPV to the Village of only \$16 million as compared to \$30 million for the PILOT Agreement proposed by the Applicant in the FEIS. Overall, the PILOT payments proposed by the Applicant, when viewed as a percentage of full property taxes, exceeds what is commonly agreed upon for initial years of a PILOT Agreement.

Additional subsidies and incentives, such as infrastructure grants or tax incentives, also could be used to alter the PILOT Agreement while still maintaining Project feasibility. For example, one-time grants could help to reduce abatements granted by the Village, resulting in higher PILOT payments.

6. **Appropriate Density Bonus Fee.** The Applicant has requested an increase in the maximum density permitted on the site to 1.6 FAR. The Applicant has proposed that a portion of this increase come through an incentive zoning program by which the Village receives a one-time monetary contribution of \$1 million for certain dedicated community benefit funds in exchange for a certain increase in density.

AKRF employed a variety of methodologies to estimate a bonus density fee appropriate for the additional FAR sought by the Applicant. The resulting estimates ranged from approximately \$2.4 million to \$3.4 million—well above the \$1 million amount advanced by the Applicant in the DEIS. AKRF tested the fee range to determine whether a fee amount between \$2.4 million and \$3.4 million would make the Project economically infeasible; this was found not to be the case.

Ultimately it is for the Village to decide whether bonus density should be granted, and if so, to establish a fee to be paid by the Applicant. With respect to the suggested fee range, AKRF notes that Project improvements requested by the Village that go beyond Project mitigation, if any, and that can be fairly "unbundled" from costs necessary to mitigate Project impacts, could be considered a "public benefit" to be monetized for purposes of a density bonus fee. However, the Applicant's costs put towards mitigation measures or Project components that may have ancillary/off-site benefits should not be applied toward a density bonus fee. It is also important to note that a successfully-executed project would generate substantial public benefits that, if fully monetized, would exceed by orders of magnitude the one-time density bonus fee.

## BACKGROUND

AKRF is a retained planning consultant for the Village. In October 2014, AKRF was engaged by the Village to assist the Village Staff in their review of the Project through the State Environmental Quality Review Act (SEQRA). Towards that end, AKRF has assisted the Village in reviewing the Applicant's DEIS, proposed zoning, and FEIS. It is anticipated that AKRF will continue to provide assistance to the Village in the adoption of a Statement of Findings, final zoning amendments, and through the Site Plan approval process.

As part of the Project's DEIS, the Applicant made several assertions related to the economic viability of the Project. Those assertions have direct bearing on the Project's SEQRA review and findings, as well as the Village's establishment of a density bonus fee amount for the proposed zoning. Therefore, the Village determined that the Applicant's economic assertions warranted evaluation as part of the SEQRA process.

The specific assertions made in the DEIS that are the subject of this analysis are numbered in italics, below:

1. *“Given that the FAR in the existing Code does not, in the Applicant’s opinion, adequately provide for the critical mass necessary to create a viable redevelopment, the Applicant does not consider [development at the current Floor Area Ratio (FAR) of 0.8] to be a viable alternative.”* (DEIS pps. E-12, II-7. III-A-2)

Arguments made in the DEIS to support this assertion included the following:

“In the Applicant’s opinion, the density required to support viability of a new mixed-use place is a factor of location, context, land and development costs, amount of land given over to streets, sidewalks, public places, garages, parking lots, etc.” (DEIS p. II-4)

“The Proposed Project...requires very significant sitework to create a “platform” for development [parking garages, street network] compatible with the kind of walkable downtown nature that is envisioned by both the Applicant and the Village Comprehensive Plan.” (DEIS pps. II-4, III.A-13, IV-2)

“Project site development costs – which include land, parking, demolition and excavation and roadway costs – can also drive the need for greater density. These costs are spread across all the uses on site and are ultimately reflected in the per square foot rents for every tenant. Unless they fall within a reasonable range, the rents required to cover those costs will exceed what the market will bear resulting in diminished tenant interest and potentially a significant impact on project viability.” (DEIS p. IV-2)

2. *“The Applicant contends the savings associated with the use of the PILOT are vital to the economic feasibility of the Proposed Project as the savings will enable the Applicant to commence and complete the Proposed Project.”* (II-22) *“To reduce that financial risk and to make the Proposed Project economically feasible, the Applicant needs the PILOT.”* (DEIS p. III.F-26)

Arguments made in the DEIS to support this assertion included the following:

“This is particularly important during the early stages of project development which is expensive due to site development costs and the income stream from the Proposed Project is not fully available until lease up of the facility.

“This is particularly the case for the Proposed Project where it is anticipated that one of the very first steps will be the required demolition of the United Hospital buildings and related infrastructure which has a very high and unusual cost estimated to exceed \$5.0 million.

“Another costly initial step necessary before site construction is the required remediation (expected to exceed \$5.0 million) of the Project Site, refer to Appendix B for preliminary estimates.

“Given the foregoing and the length of time for site construction, it is expected that the Applicant will not likely see a return for a minimum of three years.” (DEIS p. II-22)

The financial implications of the granting of financial assistance by PCIDA and any PILOT Agreements for the Project is central to the Applicant’s assertions of the Project’s economic viability, and therefore must also be considered by the Village of Port Chester as part of the SEQRA review process.

3. ***“The Applicant has proposed...a one-time \$1.0 million public benefits payment for increasing the FAR.”*** (DEIS p. II-22)

As noted in the DEIS, “The issue of whether a development bonus, as envisioned in the proposed zoning text amendment, can be applied to the Proposed Action is to be determined by the Lead Agency as part of the environmental review process and as part of the weighing and balancing of the Proposed Action.” (DEIS p. III.A-24)

AKRF’s analysis focused on evaluating the validity of the above-described assertions. AKRF’s scope of work **did not** include the following:

- Determining a “breakpoint” or minimum development density for the Project that might be financially feasible;
- Determining whether a composition of uses different from what is proposed by the Applicant would be financially viable at the currently allowed density, or at a lesser density than proposed by the Applicant;
- Determining an assessed value for the Project, which would be done by the Town of Rye’s Assessment Office upon Project implementation; or
- Establishing a PILOT Agreement and/or associated PILOT fee(s). The qualification for all, or portions of, the Project for the application and granting of IDA benefits—and one or more PILOT Agreements as a component of those benefits—would be determined by the Village of Port Chester IDA (“PCIDA”) at the time an application to PCIDA is advanced by the Applicant.

## **APPROACH**

A SEQRA DEIS, which is an environmental review document, does not contain the full breadth of financial information necessary to verify a project’s economic viability. In order to validate the Applicant’s claims related to the Project’s economic viability, it was necessary for the Village, or an agent of the Village, to request from the Applicant additional financial data, some of which the Applicant views as confidential.

The Village worked with the Applicant to develop an approach that provided the best information possible to the Village for their decision-making on the Project under SEQRA, while being mindful of the Applicant’s concerns related to disclosing confidential financial information. Ultimately, the FEIS must

provide sufficient information related to the project's finances to allow the public to be informed of the basis for the conclusions in the FEIS on the financial feasibility of the Project and, in turn, the Village's (and PCIDA's) SEQRA Findings, as well as to comment meaningfully on the impact statement.

In order to gain access to the full set of financial data necessary to perform its review under SEQRA, AKRF, acting on behalf of the Village, signed a non-disclosure agreement with the Applicant that restricts AKRF's sharing of the Applicant's "raw" financial information with any other parties, including the Village, without the Applicant's consent. In addition, the Applicant reviewed AKRF's draft reporting, including a draft version of this memorandum, in order to confirm that confidential project data is not presented publicly.<sup>9</sup> The Applicant's review of draft materials was restricted to issues related to the potential disclosure of confidential data; broader concerns the Applicant may have related to AKRF's analysis and findings were not raised as part of the Applicant's review.

The analysis was led by AKRF's Economic and Real Estate Advisory Services practice, which includes economists, MBAs, accredited real estate professionals and former real estate developers with experience developing financial pro forma and reviewing project financials for public and private clients.<sup>10</sup>

In coordination with the Village, AKRF developed the following approach to evaluate the Applicant's financial claims:

**Request and receive from the Applicant all financial data necessary for the analysis.** Working under a non-disclosure agreement with the Applicant, AKRF discussed with the Applicant the nature of the financial information available, and requested financial pro forma models and supporting documentation for the following "development scenarios":

- *Financial pro forma model for the Applicant's Proposed Project.* This model provides the Applicant's financial analysis of the proposed uses at the approximately 1.6 FAR density advanced in the DEIS. With respect to the PILOT fee, the model advanced a higher first-year PILOT payment of \$3,350,000 that increases 2.5 percent per year as compared to \$2,975,000 with no annual increases in the DEIS; the larger amount is what the Applicant now proposes and which is expected to be included in the FEIS.<sup>11</sup>
- *Financial pro forma model for a "0.8 FAR scenario."* This model provides a financial analysis of the mix of uses proposed by the Applicant, but at a density that is currently allowable on the project site. This scenario assumes that the uses are scaled back proportionate to the mix proposed by the Applicant in the Proposed Project, with the exception of the retail use, which would stay the same as a ground floor use. Under this scenario certain development costs would remain the same, such as demolition and abatement, roadway work and utilities; while some costs would be reduced or eliminated, including underground stormwater drainage, the need for some retaining walls, and off-site sewer and roadway improvements. AKRF tested this scenario using a variety of revenue and financing assumptions.
- *Financial pro forma model of the Project without a PILOT Agreement.* This model made the same financial assumptions as the pro forma for the proposed Project, but did not include the financial benefits associated with a PILOT Agreement, nor did it include a PILOT fee. In other words, this

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<sup>9</sup> In some cases data presented as part of this memorandum is described as "about" or "above/below" a certain value. Data is presented in this manner in order to avoid disclosing confidential financial information.

<sup>10</sup> Appended to this memorandum is additional information on AKRF's Economic and Real Estate Advisory Services practice and the staff involved in this analysis.

<sup>11</sup> The term 'PILOT payment' or 'PILOT fee' as used in this memorandum include both the fee paid to the PCIDA under the terms of a PILOT agreement, as well as the taxes paid directly to the Sewer and Solid Waste District, which cannot be abated by the PCIDA. The sum of that fee and those taxes is equal to the 'PILOT fee' advanced by the Applicant and included in their pro forma.

scenario assumed that the proposed Project would pay taxes on construction materials and mortgage recording, and that it would be pay full property taxes over the life of the asset.

**Review the mechanics of the financial models provided by the Applicant.** Pro forma models typically follow a template that works to compare a project's income and expense streams. In order to evaluate the Applicant's assertions in the context of the financial models provided, it was first necessary to confirm that the models provided were functionality intact, and that their structure and calculations follow acceptable financial industry standards.

**Evaluate the reasonableness of financial assumptions used by the Applicant in their pro forma models.** Model assumptions such as market rents, construction costs, financing terms, and assessed value were compared to data available from comparable built projects or comparable project components within the lower Westchester County market. Assumptions were also vetted with industry professionals, including AKRF's in-house engineers and environmental specialists as well as real estate brokers and developers. For key assumptions, AKRF tested a reasonable range of variance to ensure that the Project's forecasted returns were not misrepresented by assumptions.

**Establish thresholds for "financial feasibility" in the local market.** Based on the financial return metrics used by the Applicant in its Project financials (Yield on Cost<sup>12</sup> and Equity Multiple<sup>13</sup>), AKRF independently identified "feasibility thresholds" for these metrics using projects with similar development risk profiles in the lower Westchester County market. The "feasibility threshold" is the level of return that would be required in order to secure financing for the Project and successfully execute the Project. As detailed in the "Definitions and Context for Analysis" section below, thresholds for financial feasibility were determined to be a Yield on Cost of approximately 6.5 percent, and an Equity Multiple of approximately 2.0.

**Determine whether the Project is financially viable at the density currently permitted in the PMU zoning district.** AKRF reviewed the financial pro forma for the Project as proposed by the Applicant against the financial pro forma of a development program with similar uses, but at the lesser density currently allowed by zoning. The financial returns exhibited in each model were tested using a reasonable range of input assumptions for development cost, financing, operating costs, and rent revenues.

**Determine whether the Project needs financial support in the form of a PILOT Agreement in order to achieve threshold financial feasibility.** AKRF tested the financial returns of the Project against a number of PILOT Agreement scenarios, including no PILOT Agreement, the PILOT structure advanced by the Applicant in the FEIS, and a range of hypothetical PILOT structures allowable under PCIDA's UTEP.

**Estimate an appropriate density bonus fee (if bonus density were to be granted).** In parallel with the task work described above, AKRF worked to identify a range of fee amounts appropriate for the density bonus sought by the Applicant as part of the proposed rezoning. AKRF employed a value creation methodology similar to the approach contained in the Village's existing incentive zoning program as set forth in §345-16 of the Village Code. AKRF also performed a land residual analysis as an alternative approach to establishing the incremental value of the additional density requested. The objective of this task was to provide the Village with a fee or fee range that appropriately compensates the Village for the value of the additional density, while being calibrated so that there is sufficient residual value to the Applicant above the fee to incentivize additional development in light of the Project's risk profile.

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<sup>12</sup> Yield on Cost (YOC) is a ratio measurement of the annual return of a project/investment with stabilized Net Operating Income divided by total project cost.

<sup>13</sup> Equity Multiple (EM) is a ratio dividing the total net profit plus the maximum amount of equity invested by the maximum amount of equity invested.

AKRF's review process included numerous meetings with representatives of the Village, technical support from representatives of the Port Chester Industrial Development Agency (PCIDA), as well as an executive session presentation to the Village Board of Trustees on January 19, 2016. At that executive session AKRF presented preliminary analysis findings, responded to questions, and received requests for adjustments and supplements to the analysis.

AKRF staff also met separately on several occasions with representatives of the Applicant, so that they could: introduce the financial information and supporting documentation and provide a "walk through" of the models; respond to AKRF's questions related to the structure of the models; respond to AKRF's questions related to the financial metrics and assumptions used in the models; and to coordinate AKRF's requests for adjustments to the Applicant's models so that AKRF could better assess the assertions made by the Applicant in the DEIS.

Due to the confidential nature of some information reviewed by AKRF as part of this assignment, AKRF work products, including this memorandum, were reviewed by the Applicant prior to publication in order to ensure that confidential information is not disclosed publicly without the Applicant's permission.<sup>14</sup> The Applicant's review of draft materials was restricted to issues related to the potential disclosure of confidential data; broader concerns the Applicant may have related to AKRF's analysis and findings were not raised as part of the Applicant's review.

## **DEFINITIONS AND CONTEXT FOR ANALYSIS**

In order to evaluate claims related to a project's "financial feasibility" or "economic viability," it is important to first establish what such terms mean, among others used in this analysis. This section provides definitions and context for AKRF's analysis, including AKRF's estimates of the minimum financial return that would be necessary to make the Project economically feasible.

### ***WHAT CONSTITUTES AN "ECONOMICALLY FEASIBLE" PROJECT?***

At the most basic level, a project is economically feasible if it is able to secure the financing that is necessary for development, and the returns generated by the project are adequate to satisfy its financial obligations to investors. Investors will only take on a project if it has a positive return on investment, and those returns must be equal to or greater than other investment alternatives when accounting for risk. The return that is "required" varies by project, and is dependent upon the level of risk associated with a project. All other things equal, projects with higher risk profiles require a higher rate of return to investors in order to compensate for the risk associated with their investment. An economically feasible project is, by definition, a project that is beneficial to the Applicant.

### ***WHAT ARE THE PROJECT RISKS?***

From a developer/investor perspective, a project's risk depends on the level of predictability associated with its costs and revenues. If there's lack of clarity, or a greater potential for variance with costs and revenues, you have a relatively risky investment.

In the case of the Proposed Project, there is the potential for higher-than-expected development costs. In terms of construction, there are substantial costs associated with demolition, remediation, grading, retaining walls, etc. Many of these site prep costs are unusually high due to the nature of the site, and there are still some unknowns with respect to the level of effort required to prepare the site for new construction. In addition, the level of unionized labor associated with construction has not been finalized, and that decision will likely have a significant influence on cost. Furthermore, development costs can change over time, sometimes unpredictably. To give a sense of overall magnitude of potential cost variance, since the original preparation of the DEIS about three years ago, the Applicant's total

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<sup>14</sup> In some cases data presented as part of this memorandum is described as "about" or "above/below" a certain value. Data is presented in this manner in order to avoid disclosing confidential financial information.

construction cost estimate for the Project has increased by nearly \$100 million (or an approximately 30 percent increase); according to the Applicant this is due in large part to increases in the cost of vertical construction over time, and the Applicant now has better information related to the cost of site remediation and preparation.

There are also risks associated with unproven revenue streams. The mix of uses that are proposed by the Applicant is untested in Port Chester, and there are very few if any comparable projects in the lower Westchester County real estate market in terms of the mix and density of uses proposed. When a product does not have a proven track record within the local market, there is a greater risk borne by the investor because there are fewer local examples that a developer can point to as evidence of target revenue streams. And as with most development projects, there's the potential for unforeseen changes in market conditions that can affect revenues. So again, with a higher risk profile, investors expect greater potential for reward in terms of returns on their investment.

#### ***WHAT ARE THE PROJECT REWARDS AND RISKS FOR THE COMMUNITY?***

Financial return that compensates for risk is really only one measure of project success, and that's only the developer's perspective. While the Applicant's assertions are the subject of this analysis, it is important to remember that a successful project brings with it benefits and risks for both a developer and the community. With the Proposed Project there is the potential for substantial community benefits that are not quantified in the financial pro forma, but that should be factored into the broader consideration of the project. These potential community benefits include:

- **Construction jobs & permanent jobs** – The Project would generate a substantial number of jobs during the construction period, and would generate permanent full- and part-time jobs during its operations.
- **Direct and indirect economic and fiscal activity** – The construction and operations of the Project would generate substantial economic activity on site and in the surrounding region through business-to-business purchases as well as through on- and off-site expenditures by new employees, visitors, and residents.
- **Re-activating/repurposing a long-vacant site** – The New York United Medical Center (United Hospital) was decommissioned in 2005 and the Project Site has been largely vacant since that time (the residential building at 999 High Street has been occupied since 1970 and served as workforce housing for employees of the hospital; approximately 41 of the 133 units were occupied at the time of the DEIS; fewer than 41 units are now occupied).
- **Fulfilling goals of the Comprehensive Plan** – The Village's 2012 adopted Comprehensive Plan supports reactivating the United Hospital site as a mixed use development comprising a combination of hotel, neighborhood retail stores, restaurants, residential uses (including age-restricted as an important component) and community facilities.
- **New residential and commercial offerings in Port Chester** – The Project would add to the mix of residential and commercial offerings available to Port Chester residents, as well as to individuals who are considering Port Chester as a place to live or work.

The community also faces risks from a Project, especially one of this size. These risks are detailed in the DEIS and FEIS and include the potential for the Project to have significant adverse environmental impacts. In the case of the Proposed Project, impacts to the community have been evaluated in terms of the need for additional community services, the addition of traffic to area roadways, impacts to municipal infrastructure, air quality and noise impacts, especially during construction, changes to the visual environment, and impacts related to potential contamination of the Project Site. Ultimately, the Village Board of Trustees will make determinations with regard to the nature and extent of these impacts, as well as mandate certain measures to mitigate those potential impacts.

### ***WHAT IS A PILOT AGREEMENT?***

Projects that have the potential to generate substantial community benefits, but that also face a challenging financial position, often are supported by a municipality in any number of ways, for example: through public-private-partnership (P3) arrangements, where the municipality shares in a portion of the development risk by funding infrastructure improvements or parking; through the establishment of tax-increment-financing (or TIF) development districts; or through other financial incentives and mechanisms such as a PILOT Agreement. Overall, it is in the best interests of both the developer and the community to minimize financial and environmental risks, while setting in place conditions that maximize the potential to realize project benefits.

A PILOT, or “Payment In Lieu Of Taxes,” is an annual payment made by a property owner to a local government entity in place of ad valorem real property tax. Annual PILOT fees are typically allocated among the affected taxing jurisdictions in proportion to the amount of real property tax that would have been received under regular ad valorem tax collection. The PILOT fee is lower than what would otherwise be paid as property tax, and thus reflects a partial abatement of future real property taxes. At no time is a PILOT fee less than the amount currently paid in property taxes on an existing property before project improvements.

A PILOT Agreement may also provide the property owner with full exemptions from sales taxes on construction materials and from taxes on any mortgage recording fees for construction.

A PILOT is a form of economic development incentive that is commonly used by local governments to influence the location decisions of private firms expected to have a substantial positive economic impact on the community. Eligibility criteria for a PILOT Agreement vary by municipality. In the Village of Port Chester, a variety of projects are eligible for basic PILOT Agreements through the PCIDA that typically cover a period of 10 or 15 years. Certain types of projects are eligible for extended PILOT Agreements that can cover a 20-year period.

The amount of PILOT paid during the first year of the agreement, and the annual change in PILOT fee over the course of the agreement, are determined on a case-by-case basis by the PCIDA. Typically PILOT fee amounts increase over the course of the PILOT Agreement (i.e., the amount of tax abatement is higher at the onset which equates to a lower PILOT fee), so that a property owner experiences the greatest relief from future property taxes during construction and opening years, when the revenue streams from a project have not been fully realized. As the percentage of property tax abatement decreases over the life of the PILOT Agreement, the corresponding PILOT fee typically increases. At the conclusion of the PILOT Agreement, the property pays full property taxes.

### ***HOW DO YOU MEASURE PROJECT FEASIBILITY?***

A pro forma model is a common tool used by developers to evaluate the financial feasibility of a project. All financial pro forma follow templates (typically prepared in Microsoft Excel) that work to compare a project’s income and expense streams; however, there are a number of profitability ratios (or metrics) that can be used to structure the financial data in order to estimate performance, and evaluate whether a project is economically feasible. Common to all metrics is their objective: measure returns by comparing the original money contributed (debt and/or equity) to the profits achieved. Some common profitability metrics include:

**Return on Investment (ROI)** – A common profitability ratio, most frequently determined by dividing net profit (revenues after expenses) by total assets.

**Equity Multiple (EM)** – A ratio dividing the total net profit plus the maximum amount of equity invested by the maximum amount of equity invested.

**Yield on Cost (YOC)** – A measurement of the annual return of a project or investment (with Stabilized Net Operating Income [NOI]) divided by the total amount spent on the project (total project cost).

**Cash-on-Cash Return (COC)** – The ratio of annual before-tax cash flow to the total amount of cash invested, expressed as a percentage.

**Internal Rate of Return (IRR)** – The interest rate at which the net present value of all project cash flows (positive and negative) equal zero.

The utility of these metrics varies depending on the type of development, the investors' interests (e.g., whether short- or long-term), and the entities from which a developer is seeking funds. The metric that was used in the financial pro forma models initially provided by the Applicant was Yield on Cost (YOC). According to the Applicant this was their preferred metric for the Project because of its ease in comparing to other investments, its wide acceptance as an industry metric, and the relative simplicity of its calculation.

AKRF felt it appropriate to review the Project's financials using more than just the YOC metric, and therefore requested that the Applicant update their pro forma to include the Equity Multiple (EM) as a supplement to YOC. The EM provides a simple and common-sense guideline for the magnitude of returns an investor can expect, especially if they are looking for a long-term return much larger than the initial investment.

#### ***WHAT IS THE THRESHOLD FOR FEASIBILITY?***

In order to evaluate the Applicant's assertions related to Project feasibility, AKRF needed to independently determine a minimum value for both YOC and EM that would be required to finance and successfully execute the Project.

#### ***Yield on Cost (YOC)***

YOC helps investors to quantify the annual returns that a certain investment is likely to produce in the future. To calculate YOC, the NOI of the first year of stabilization (i.e., when a development is assumed to have reached full operating conditions) is divided by the total cost of the project (i.e., total construction cost, including hard and soft costs and other costs related to developing a project).

In order to execute and build a development project, developers/investors expect to be compensated for the complexity of a project and the resulting risk. Depending on the risk profile of a project, investors typically expect returns that are between 100 and 250 basis points<sup>15</sup> above the observed capitalization (CAP) rates for a similar, stabilized product in the same market. To illustrate what investors would be expecting in terms of YOC for a similar project in the lower Westchester Market, AKRF developed a blended YOC rate for the range of programming uses included in the Project.

In a first step, AKRF gathered CAP rate information for the northern New York City suburban market.<sup>16</sup> CAP rate information was provided by CBRE and Cushman & Wakefield (now DTZ), two of the largest commercial brokerage firms in US. The data reflect the conditions in the first Half of 2015 and were the most recent data available from these two major sources. AKRF then extracted high and low CAP rates from each source for each of the uses proposed by the Applicant (see **Table 1**). Where no data points were available, AKRF estimated the potential CAP rate. For the age-restricted residential use category, 25 basis points were deducted from the corresponding CAP rates for the residential uses category reported by the two brokerage houses, to reflect the higher value of the age-restricted real estate product. For the commercial parking option, a flat CAP rate of six percent was assumed, which is consistent with CAP rates for parking facilities in lower Westchester. The median of all four data points was then calculated for each use.

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<sup>15</sup> A "basis point" is one hundredth of one percent.

<sup>16</sup> CBRE provides data for the Westchester market, while Cushman & Wakefield provides the information for the North Jersey suburban market, which was assumed to be a proxy for market conditions in lower Westchester.

**Table 1**  
**CAP Rates and Yield on Cost Rates**

	Residential	AgeRestricted	Office	Retail	Hotel	Parking
<b>Cap rate by use</b>						
<b>CBRE 2015</b>						
Low	4.75%	4.50%	6.50%	5.25%	3.50%	6.00%
High	5.25%	5.00%	7.00%	5.75%	5.00%	6.00%
<b>CW 2015</b>						
Low	4.25%	4.00%	7.00%	5.25%		6.00%
High	4.75%	4.50%	7.75%	5.00%		6.00%
<b>Median</b>	4.75%	4.50%	7.00%	5.25%	4.25%	6.00%
<b>YOC by Use (Median plus 125 bp)</b>	<b>6.00%</b>	<b>5.75%</b>	<b>8.25%</b>	<b>6.50%</b>	<b>5.50%</b>	<b>7.25%</b>

To establish a minimum YOC benchmark, 125 basis points were added to the median, use-specific CAP rates. Finally, a median, weighted average YOC rate for the Project was computed, which resulted in a YOC benchmark rate of 6.5 percent for the entire development. This benchmark represents the minimum YOC rate that an investor/developer would seek to achieve when executing a project similar in nature and risk to the Applicant's Proposed Project in this particular market.

#### ***Equity Multiple (EM)***

EM is a ratio that quantifies the magnitude of total returns over the lifespan of a project by comparing overall returns to the total equity contributed by an investor. Non-discounted returns and equity outflows are used to calculate the EM. The EM is highly dependent on the amount of equity contributed to the project (not the amount of debt) and favors longer investment time frames. However, the EM provides a simple and common-sense guideline for the magnitude of returns an investor can expect, especially if they are looking for a long-term return much larger than the initial investment.

Similar to YOC, the Equity Multiple also depends on the specific expectations of the investor(s) investing in a project. To provide a larger frame of reference, AKRF assessed EM that investors typically achieve when investing in non-real estate private equity (PE) investment opportunities. A recent report by Deutsche Bank, for example, assessed European PE investments between 2005 and 2013 and found that investors achieved an average exit EM of approximately 2.5. Compared to the findings for non-real estate PE deals, PE investments limited to real estate appear to be somewhat less profitable. For example, a study from 2009 showed that real estate PE investments completed in the U.S. between 1982 and 2008 achieved an average EM of 1.2.<sup>17</sup>

Recent research conducted by AKRF on real estate investment firms and their target returns revealed that real estate investment companies tend to have return expectations that are with the range outlined above. From the sample presented in **Table 2** below, it can be concluded that investment firms strive to achieve EMs of at least between 1.5 and 2.0. Given the high-risk nature of the project, it can be assumed that the applicant would expect an EM at the higher end of the spectrum. AKRF therefore assumed that the Applicant would require an EM in the magnitude of 2.0 or above in order for the Project to be considered financially feasible.

<sup>17</sup> Private Equity investments are considered a good investment benchmark for the project, since these investments typically have similar investment characteristics.

**Table 2**  
**Target Equity Multiples**

Company	Target EM	Source
PRP Real Estate	1.7 to 2.0	<a href="http://www.prprei.com/strategy/investment-targets/">http://www.prprei.com/strategy/investment-targets/</a>
Starwood Land	$\geq 1.6$	<a href="http://www.starwoodland.com/investmentparameters.html">http://www.starwoodland.com/investmentparameters.html</a>
Globe State Investment	$\geq 2.0$	<a href="http://globalstate.us/about-us/acquisitions/">http://globalstate.us/about-us/acquisitions/</a>
White Oak Advisors	$\geq 2.0$	<a href="http://www.whiteoakre.com/investment-criteria.html">http://www.whiteoakre.com/investment-criteria.html</a>
Pacific Retail Investors	$\geq 2.0$	<a href="http://pacificretail.com/investor-information/">http://pacificretail.com/investor-information/</a>

***Project Feasibility Thresholds – Conclusion***

Based on the analysis described above, AKRF independently determined that the minimum threshold financial return values for the Proposed Project are:

- YOC  $\geq 6.5$  percent; and
- EM  $\geq 2.0$

In other words, if the pro forma models are mechanically sound, use reasonable assumptions, and show return values at or above these values, then the Project would be considered financially viable. If the pro forma models show returns below these values, the Project would not be considered financially feasible.

**ANALYSIS FINDINGS**

This section presents the findings of AKRF’s analysis of the Applicant’s financial models and their assertions related to the economic feasibility of the Project.

***FINANCIAL MODEL MECHANICS***

AKRF reviewed the Applicant’s financial pro forma models for clarity and transparency; to ensure the models functioned properly from a mechanical/mathematical perspective; and to ensure that the models’ calculations follow standards used in the industry.

The Applicant’s models were found to be mechanically sound and clearly organized. They contain a front-end “dashboard” that summarizes information in the workbook and that presents bottom-line YOC and EM information. Behind the dashboard are individual worksheets for: program assumptions; budget assumptions; hard cost assumptions; soft cost assumptions; revenue and expense assumptions by use; and cash-flow by use over a 20-year period.

Data was presented and calculated accurately. The calculations reflected the intent of the modeler(s), and the modeler(s) applied the correct formulas to derive output. There was found to be some variation in the structure and presentation of data for the various Project uses. To some extent this can be expected, as there is variance in the manner by which revenues and expenses are generated for any given use. However, in some cases the inconsistencies appeared to be the result of pulling together disparate worksheets from Applicant team modelers who had approached the presentation of expense or revenue functions in slightly different ways. For example, the PILOT fee was a stand-alone expense line on cash-flow pages for residential uses, while for other uses the PILOT fee was added on an expense assumption page, and folded into a general expense line for purposes of cash-flow.

Such inconsistencies made the pro forma models more difficult to adjust when testing a variety of different assumptions. However, they did not generate inaccuracies. In addition, throughout AKRF’s review process, representatives of the Applicant were available to AKRF and were extremely responsive in terms of working to address questions about the models and their functionality.

## ***FINANCIAL MODEL ASSUMPTIONS***

This section presents AKRF's evaluation of the reasonableness of assumptions made by the Applicant in its financial pro forma model for the Project. Key modeling assumptions are individually addressed under italicized subheadings, below.

Overall, the Applicant's financial pro forma models use reasonable assumptions given local market conditions and the new, mixed-use product that is proposed. The models were not found to strategically overstate costs or understate potential revenues in an effort to show weak return on investment; to the contrary, revenues were found to be on the high side of a range of expected values. AKRF found this to be reasonable assuming successful execution of the contemplated mixed-use program. As detailed in the analysis sections below, to more fully evaluate the Applicant's assertions regarding Project feasibility, AKRF tested the models using a range of cost and revenue assumptions within ranges that could be expected in the local market.

### ***Program***

AKRF reviewed the Applicant's model to ensure that the development program depicted in the model was consistent with that presented in the DEIS, or in cases where the assumptions were different from those in the DEIS, that they are consistent with assumptions for the FEIS. The Applicant's pro forma models accurately represented the overall proposed development program: 230 dwelling units of age restricted (55+) housing; 500 units of non-age-restricted housing; 90,000 square feet (sf) of ground floor retail (of which 45,000 sf is anticipated to be restaurant uses and 45,000 is anticipated to be neighborhood retail uses); a 135-key hotel; 217,000 sf of commercial office space; and 1,011 structured parking spaces.

For the non-age-restricted residential component of the Project, the breakdown of Studio/Lofts, 1-bedroom (BR) units, and 2-BR units was the same as reported in the DEIS. However, for the age-restricted component, the model reported more studio/1-BR units (181 units) as compared to the DEIS (115 units) and correspondingly fewer 2-BR units. This was an adjustment made by the Applicant after the DEIS was published, and reflects what the Applicant believes to be a better alignment with market conditions. The discrepancy did not affect AKRF's analysis because the pro forma model's revenue calculations applied a consistent psf rent across all age-restricted units types, and the total sf of age-restricted housing was consistent with the DEIS assumption (207,000 sf).

### ***Development Costs***

AKRF's review of the assumptions in the Applicant's financial model quickly identified a substantial difference between the total development cost advanced in the DEIS—approximately \$335 million—and the total development cost in the Applicant's financial pro forma for the Project—almost \$450 million. This discrepancy was raised with the Applicant, who explained that vertical construction costs have increased substantially since the original preparation of the DEIS estimate approximately three years ago, and the Applicant now has better information related to the cost of site remediation and preparation.

AKRF considered whether its analysis could properly ignore the outdated cost estimate, as it was tied to the assertions made in the DEIS that are the subject of this analysis. It was decided to move forward with the updated cost estimate. The objective of AKRF's analysis is to evaluate the Applicant's statements related to economic feasibility based on the best information available; reverting to the DEIS construction cost estimates would not meet that objective. In addition, as detailed below, AKRF's vetting of construction cost assumptions included adjustments to certain cost assumptions in order to test a reasonable range of potential cost estimates based on current market conditions.

Based on the information in the Applicant's financial pro forma, the Project has an estimated total development cost of approximately \$320 per square foot (psf), or \$375 psf when parking is excluded. The cost assumptions vary by use, ranging from approximately \$140 psf for structured parking to over \$500 psf for the hotel (or over \$360,000 per key).

AKRF found the total development cost estimate to be on the high end of a reasonable range of estimates. Within the lower Westchester County market, a \$375 psf cost (excluding parking) is high when compared to development of a vacant site without potential contamination and/or grade issues. At a vacant site without extensive site work or contamination, a more typical development cost may range from \$250 to \$350 psf. As detailed below, however, the Project has nearly \$40 million in estimated site preparation costs (equating to an average of nearly \$30 psf in development cost). Another contributing factor is a relatively high tenant improvement costs<sup>18</sup> for the office and retail components of the Project, which represent between 20 and 30 percent of the total hard costs associated with those uses. While this is higher than average, it is not unreasonable given the desired market position of the products and anticipated rents that are contemplated for these uses.

The overall development cost is further broken down into the following components:

- **Hard costs** – Hard costs include actual construction costs (materials and labor) for site work, base building and furniture, fixtures and equipment (FF&E). Overall, the Project’s hard costs total approximately \$335 million, and represent approximately 75 percent of the total development cost, which is within a normal range of expected hard costs as a percent of total cost. Hard cost estimates exempted sales tax on construction materials, which is a reasonable assumption under the condition that the Project is awarded a PILOT Agreement, as PILOT Agreements typically provide such an exemption.
  - **Site preparation costs** (a subset of hard costs) for the Project approach \$40 million, representing nearly 10 percent of the total development cost. Of the nearly \$40 million in site preparation costs, over \$7 million are associated with demolition<sup>19</sup>, over \$11 million are associated with remediation/abatement of hazardous materials (in buildings and in the ground)<sup>20</sup>, and approximately \$12 million is for site work in preparation of vertical construction (including excavation and grading).

At 10 percent of total development cost, site preparation costs are unusually high for the Project, and result from the challenges associated with the site’s topography as well as the history of uses on site and the potential for environmental contamination. The Project Site slopes up steeply from the Boston Post Road, where the elevation is approximately 64 feet, to the center of the site where the elevations range up to 109 feet. In support of the site preparation cost estimates, the Applicant shared with AKRF the budget estimate for site preparation work that was prepared by TRC Engineers, Inc. in November 2015. The estimate, which includes itemized unit cost estimates for “normal” site development costs as well as “extraordinary” costs associated with elements such as rock excavation, underground stormwater systems, and retaining walls. AKRF’s Engineering Department reviewed the unit cost assumptions and found them to be reasonable/competitive for the local market.

A Phase II subsurface hazardous materials investigation has not been conducted for the Project Site, so it is difficult to review with high confidence the Applicant’s cost estimates for in-ground remediation. Experts from AKRF’s hazardous material group reviewed the Phase I Environmental Site Assessment (ESA) and the Applicant’s remediation cost estimates and found that cost estimates associated with in-ground

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<sup>18</sup> A tenant improvement allowance is typically provided as part of a lease agreement to build-out or retrofit space for the tenant’s specific use.

<sup>19</sup> The \$5.0 million demolition cost estimated cited in the DEIS p. II-22 does not include cost associated with the demolition of 999 High Street.

<sup>20</sup> The \$5.0 million remediation cost estimate cited in the DEIS p. II-22 relates only to building remediation, and does not include in-ground remediation costs.

remediation measures are reasonable given the Phase I ESA findings and the costs associated with disposal of contaminated materials.

- **Soft costs** – Soft costs include permitting fees, architecture and engineering fees, legal fees, development team fees, marketing, and financing (including one-time PCIDA fees). The Project’s soft costs total approximately \$50 million, which is about 10 percent of total development cost and approximately 15 percent of hard costs; lower than typical, but for this project a reasonable distribution considering that hard costs are on the high end of an expected range.
  - **Financing costs** – Financing cost are all costs related to obtaining funding and financing for the development project. They include interest and fees paid to lenders and brokers and transaction fees. Financing assumptions assume a Loan-to-Value Ratio of 65 percent, which is realistic in today’s market environment. The construction loan is tied to the LIBOR<sup>21</sup> and assumes a rate that is 250 basis points (i.e., 2.5 percent) above the LIBOR rate. For permanent financing the applicant assumes a rate of approximately 5.4 percent, which is reflective of today’s credit environment. Overall, financing assumptions are within reason and mirror the current low-interest market conditions.

### ***Land Purchase/Land Carrying Costs***

The Applicant’s land acquisition costs were not factored into the financial models. AKRF had lengthy discussions with the Applicant on this point, because it is atypical for a pro forma model to exclude the cost of land. The Applicant’s stated rationale is that they view the land purchase as a cost that they would hope to recover at exit (i.e., upon sale of the property at a future date) rather than at the front end. The Applicant also wants to combat the notion that the project’s viability, and its need for bonus density and a PILOT Agreement, is tied to the cost associated with the purchase of the property. AKRF agreed that this position was acceptable for our analysis because it was the more conservative position; had the Applicant included the costs associated with land purchase, it would have presented additional costs that would further erode the Project’s viability as viewed from the perspective of a financial pro forma model.

### ***Operating Expenses***

Operating expenses were provided separately for each use on a per square foot (psf) basis, with additional breakdown for the hotel and residential uses. AKRF reviewed the psf assumptions and found that they align with industry standards and are appropriate for this marketplace.

### ***Operating Revenues***

Overall, the Applicant’s revenue forecasts were found to be in the middle to high-end of a reasonable range of expected values.

- **Residential (age-restricted and non-age-restricted)** – AKRF reviewed residential rents for comparable residential products in the Southern Westchester market. Some of the comparable properties were provided by the Applicant, while others were independently identified by AKRF. Residential rents for comparable rental products in the market generally fall within a range of \$36 to \$48 psf per year. Projected residential rents for the Project’s non-age-restricted offerings are on the high end of this range, while age-restricted rent projections are slightly higher than the current market range. The age-restricted rent assumption was raised by AKRF with the Applicant, who contends that the higher-than-market assumption is due to the premium created by the Project’s mixed-use setting. AKRF agrees that a mixed-use setting would be a desirable amenity that could command a premium. Nevertheless, in reviewing the Applicant’s assertions AKRF tested a range of rent revenue assumptions for the age-restricted units, including rents that fall within the range currently found in the local market. For both age-restricted and non-age-restricted housing, the Applicant’s financial

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<sup>21</sup> The London Interbank Offered Rate (LIBOR) formally measures the cost of this inter-bank lending, setting out the average rate banks pay to borrow from one another.

model assumes a 6 percent vacancy rate during stabilized operations, which is a standard/acceptable assumption.

- **Hotel** – The Applicant’s hotel revenue assumptions were found to be reasonable when compared to revenue data from select upper-midscale and upscale class full- and limited-service hotel properties in lower Westchester County. Based on data assembled by STR Global, the comparable properties’ hotel occupancy averaged approximately 77 percent between 2009 and 2015, with occupancy at nearly 80 percent for 2015. The Applicant’s pro forma models assume an 80 percent stabilized occupancy rate for the hotel, which is slightly higher than the average for the market over the last six years, but comparable to the most recent year and reasonable for the Project given that its location at the Boston Post Road entrance nearest the highway where visibility to travelers would be greatest. Similar to the occupancy assumption, average daily rate (ADR)<sup>22</sup> and annual RevPAR<sup>23</sup> assumptions were also slightly above the comparable properties in the local market, which in 2014 had an ADR of approximately \$155 (average for all) and RevPAR of approximately \$119. Again, given the hotel’s proposed location and the mixed-use setting envisioned, it is reasonable to expect that the Project’s hotel could perform slightly above the average for comparable (but stand-alone) hotel products in the local market.
- **Retail** – Retail asking rents for five properties within Port Chester were provided by the Applicant as support for the Applicant’s retail rent assumptions. The comparable retail spaces were all at ground floor within recently built structures (including listings within the Waterfront at Port Chester and along North Main Street). The spaces were reviewed by AKRF and found to be reasonable comparables. Asking rents for comparable spaces ranged from \$35 to \$50 psf per year; the Applicant’s retail revenue assumptions for both restaurant and neighborhood retail uses fall in the middle of that range.
- **Commercial Office** – Commercial office rents for five properties within the lower Westchester market were provided by the Applicant as support for the Applicant’s office rent assumptions. The comparable commercial office spaces were all Class A office buildings that were built in the 1980’s and 1990’s with rents ranging from \$33 to \$37 psf per year; the Applicant’s commercial office revenue assumption falls within that range. Based on CBRE 4th Quarter 2015 market data, the average rent for Class A office space in the Port Chester/Rye Brook/Rye submarket was \$27.83 psf per year, while Class B office space rent was \$30.05 psf per year.<sup>24</sup> While the Applicant’s rent assumption is higher than these averages, office space within close proximity to amenities is in relatively high demand, and the Applicant’s intent to tenant the space with medical office/wellness uses targets a relatively strong office-based industry sector. It is therefore reasonable to expect that the Proposed Project’s office space could achieve the rent level assumed by the Applicant.
- **Parking** – Revenue assumptions for parking (both hourly and monthly rents) were found to be comparable to parking rents within the lower Westchester market. Parking is a relatively small revenue generator for the Project, such that variation from the Applicant’s assumptions were not found to materially affect the Project’s financials and would not alter the findings of AKRF’s analysis.

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<sup>22</sup>Average Daily Rate (ADR) is a statistical unit that is often used in the lodging industry. The number represents the average rental income per paid occupied room in a given time period.

<sup>23</sup>RevPAR, or revenue per available room, is a performance metric in the hotel industry that is calculated by dividing a hotel’s total guestroom revenue by the room count and the number of days in the period being measured.

<sup>24</sup> CBRE Westchester County Statistical Report, 4th Quarter 2015.

### ***Timing and Phasing***

Consistent with the DEIS, the Applicant's pro forma models assume that construction would be performed for all contemplated uses during a single-phase, approximately two-year period. While the two-year construction timeline appears to be aggressive given the challenges associated with site preparation and the overall scale of the Project, assuming a longer construction period would weaken the financials of the Project. In this respect, an aggressive construction timeline would serve to make the Project appear more financially viable, not less.

The Applicant's models assume 20 months to stabilized operating conditions for the residential components (age- and non-age-restricted) and 12 months to stabilized operating conditions for the office, retail, and hotel components of the Project. The model assumes linear ramp-up of revenues from start of operations to stabilization. All of these are reasonable and standard assumptions for financial pro forma modeling for the mix of uses contemplated.

### ***Project Financing***

The Project's financial models assume a loan-to-cost (LTC) ratio of approximately 65 percent, which is a standard assumption. Also standard is the model's draw-down on equity first, followed by a construction loan. Construction loan fees and closing cost assumptions were found to be standard. The model did not assume any mortgage recording tax on the construction loan, which is appropriate given the Applicant's request for a PILOT Agreement, which would exempt the Project from mortgage recording fees.

### ***Assessed Value***

As stated in the DEIS, a potential assessed value for the Project was requested from the Town of Rye Assessment Office but was not available at the time of submission of the DEIS. In the absence of the Town of Rye Assessment Office's input, the Applicant prepared a preliminary evaluation of potential assessed value for the Project using existing comparable development projects in the Village.<sup>25</sup> Assessments were tabulated on a psf basis and applied to the Project for a total estimated assessed value of \$130,479,680.

The Applicant used a "comparables" approach to projecting the assessed value (i.e., estimating based on property taxes generated by comparable uses), attributing this approach to a suggestion made by the Town of Rye Assessor. Based on AKRF's conversations with the Town of Rye Assessor, we expect that the Assessment Office would employ a different approach to valuation—either an income-based approach (dividing an estimate of NOI by a Westchester-standard 12 percent capitalization rate used for assessment) or a construction cost-based approach (where certain costs associated with construction are used as the basis for the value of improvements on the site).

All of the factors and assumptions that would be used by the Town of Rye Assessment Office to estimate an assessed value for the Project, assuming the use of income- or construction cost-based approach, are not available to AKRF. Therefore, a comparables approach is a reasonable proxy for estimating the Project's assessed value. Similar to the exercise undertaken by the Applicant, AKRF identified the assessed values for comparable properties from the Town of Rye's assessment roll. AKRF found that the comparable commercial uses pay property taxes that equate to between approximately \$4 and \$5.50 psf per year.<sup>26</sup> For the Proposed Project, this range would equate to an assessed value estimate ranging between approximately \$133 million and \$183 million. Based on this range, and the quality of the mixed-use product envisioned by the Applicant, it is AKRF's position that the Applicant's estimate is at the low

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<sup>25</sup> Comparable development used by the Applicant for the DEIS estimate of assessed value included The Mariner as a basis for rental product; 55 South Main Street for office; 30-48 South Main Street for neighborhood retail; and Hilton Westchester (located in the Village of Rye Brook but assessed by the Town of Rye) for hotel use.

<sup>26</sup> The assessed value for the Project would be determined by the Town of Rye Assessment Office upon Project implementation, and could be lower or higher than the likely range estimated by AKRF.

end of a possible range, and likely underestimated the future assessed value for the Project in the DEIS. As detailed under “Project Need for PILOT Agreement” below, AKRF tested the Applicant’s assertions with respect to the need for a PILOT using—in addition to the \$133 million value from the DEIS—the \$133 million to \$183 million range cited above.

***PILOT Agreement (Terms and Fee)***

The Applicant’s pro forma model for the Proposed Project assumes that the Project would receive a PILOT Agreement. For purposes of the DEIS and as updated in the FEIS, the Applicant advances assumptions for a PILOT Agreement that were not made in consultation with PCIDA.<sup>27</sup> The FEIS assumptions are as follows:

- An annual PILOT fee over a 20-year period starting at \$3,350,000 the first year, and increasing by 2.5 percent each year over the 20-year period;
- One-time PCIDA fees totaling approximately \$2.5 million;
- Full exemption from sales taxes on construction materials; and
- Full exemption from mortgage recording tax for construction loan.

As discussed in “Project Need for PILOT Agreement” below, there is no set standard for establishing a PILOT fee and its rate of escalation over time. Therefore it is difficult to evaluate the reasonableness of the Applicant’s assumption. PILOT fees typically are structured based on percentage abatement of the future property taxes, starting in the first years of a PILOT Agreement with greater levels of abatement (lower PILOT fee reflecting a lesser percentage of total property taxes) and lessening the abatement levels (thus increasing PILOT fee) in the later years of the PILOT Agreement. In this respect, the Applicant’s assumption is atypical because there is less variance in the suggested fee between the first and final years of the suggested PILOT Agreement.

In some cases, the initial PILOT fee can be nothing more than the existing property taxes paid for the property (i.e., 100 percent abatement of ad valorem taxes); however, a minimum PILOT fee typically includes an amount determined to be necessary to mitigate the municipal costs associated with a project.

***Density Bonus Fee***

In the DEIS the Applicant proposed to provide the Village with a “public benefits package” in exchange for increasing the FAR, which includes a payment to the Village of \$1.0 million for the improvement to the following public resources outlined in the proposed Southern Gateway Mixed Use Overlay Zoning District: \$250,000 towards a new municipal service facility; \$250,000 towards the Village waterfront and marina; \$250,000 towards Fox Island peninsula redevelopment; and \$250,000 towards the provision of publicly accessible or dedicated open space or enclosed program space anywhere in the Village.

AKRF’s analysis under “Bonus Density Fee” below finds that the \$1 million amount proposed understates the value of the additional density and the corresponding fee amount that should be put toward public benefits. AKRF therefore tested the Applicant’s assertions related to Project viability and need for a PILOT Agreement using a range of fees determined by AKRF to be more appropriate for the Project.

***NEED FOR ADDITIONAL DENSITY***

In order to evaluate the Applicant’s assertion that the allowable density in the existing code does not provide for the development density necessary to create an economically viable project given the mix of

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<sup>27</sup> The Applicant has yet to advance a PILOT application to PCIDA, and therefore PCIDA is unable to substantively comment on the reasonableness of the PILOT assumptions made in the DEIS. Similarly, without an application from the Applicant, PCIDA cannot evaluate whether a PILOT Agreement is warranted or suggest potential structures for a PILOT.

uses proposed, AKRF needed to review the financials of a project at the density currently allowed by zoning. AKRF requested from the Applicant a pro forma model for a “0.8 FAR Scenario” that mimics the uses contemplated by the Applicant for the Proposed Project, but at the lesser 0.8 FAR density allowed by zoning.

The Applicant provided a model that proportionately reduced the density of all uses with the exception of retail, which stayed the same (90,000 sf), as it is a ground-floor use that would be present under either scenario. Structured parking spaces were reduced based on a proportionate reduction in peak demands.

Under this 0.8 FAR Scenario, the following development costs remained the same as the assumptions used for the Proposed Project:

- **Demolition and abatement** – Existing uses on the site would need to be demolished and the site fully remediated under either scenario.
- **Grading, site utilities and pavement** – Similar to demolition and abatement, the site preparation costs would still be incurred by the lesser-density scenario.
- **Roadway improvements within close proximity of site** – The Boston Post Road corridor would still require improvements to address vehicular and pedestrian volumes generated by the lesser-density scenario.
- **Vertical construction cost** – The cost of vertical construction for each use assumed the same psf cost as the Proposed Project.

Costs that were reduced or eliminated under the 0.8 FAR Scenario included the following:

- **Underground stormwater treatment** – with less impervious surface and somewhat more land area to work with, stormwater strategies could be simplified and therefore costs of constructing on-site drainage structures could be reduced.
- **Retaining walls** – Construction would be drawn in from the property lines, which would eliminate the need for significant retaining walls, except along the Boston Post Road where the Applicant would still want to develop the site close to the road.
- **Off-site sewer contribution** – The lesser density would reduce the amount of sewage generated by the Project. Therefore, the Applicant’s financial contribution to the Village to pay for upgrades to reduce infiltration and inflow would be proportionately reduced.
- **Off-site traffic improvements** – The reduced Project Site population/visitation would reduce some traffic impacts and costs associated with mitigating those impacts.
- **PILOT fee** – Reduced proportionately by square footage.

In order to more directly compare the financial returns of the 0.8 FAR Scenario against those of the Project (which has returns above threshold feasibility), AKRF initially requested that the psf revenue assumptions in the 0.8 FAR Scenario model remain consistent with those of the Proposed Project. This was considered a highly conservative assumption; as suggested by the Applicant in the DEIS, there is a critical mass necessary in order to create a successful and vibrant mixed-use setting that could command the rents necessary to make the project economically feasible. AKRF agrees that the 0.8 FAR Scenario would not likely have the critical mass necessary to achieve the rents projected by the Applicant for the Proposed Project. Therefore, AKRF requested from the Applicant an alternative 0.8 FAR Scenario model that assumed rents that in their view more closely align with what could be achieved with the 0.8 FAR program. The Applicant responded with the following suggested adjustments:

- **Residential rents** for both age-restricted and non-age-restricted units was reduced by approximately 25 percent on a psf basis;
- **Retail rent** was reduced by approximately 15 percent on a psf basis;

- **Restaurant rent** was reduced by approximately 10 percent on a psf basis; and
- **Commercial office rent** was reduced by approximately 12 percent on a psf basis.

For purposes of testing the Applicant's assertion that the Project is not economically viable at 0.8 FAR, the original Project-based revenue streams served as high-end estimates while the above-described lower revenue projections served as the low-end estimates. The resulting financial returns in both the "high-end" revenue-neutral and "low-end" reduced-revenue conditions fell below the 6.5 percent feasibility threshold for YOC and below the 2.0 threshold multiple for EM.

In addition to adjusting and testing revenue assumptions, AKRF further tested the 0.8 FAR Scenario model by inserting alternative cost assumptions and observing their effect on the YOC and EM. Specifically, the following cost assumptions were varied in the model:

- **Hard construction costs** – The psf cost associated with vertical construction was tested with 20 percent variance above and below the values originally provided by the Applicant (site preparation costs for the 0.8 FAR Scenario had already been adjusted as described above). Tenant improvement allowances were tested with 50 percent variance above/below values provided by the Applicant.
- **Soft construction costs** – The psf assumption for soft costs was tested with 20 percent variance above and below the values originally provided by the Applicant.
- **Alternative PILOT fees** – In addition to the proportional reduction in PILOT fee, the annual PILOT fee amount was tested by applying a more typical property tax abatement schedule whereby a greater percentage of property taxes were abated in the first years of the PILOT Agreement (i.e., a lower starting PILOT fee than advanced by the Applicant).
- **Reduced upfront development costs** – While the Applicant has not identified financing strategies outside of the PILOT Agreement assumption, it is possible that the Project could receive grants and/or other forms of funding that may lessen the overall development costs, either for site preparation or for construction of a particular Project element. AKRF therefore further reduced total development costs by \$10 million, in order to test whether additional grants/financing opportunities could make the Project economically viable at 0.8 FAR.

In all cases and under all scenarios described above, the returns for the 0.8 FAR Scenario continued to fall below the 6.5 percent feasibility threshold for YOC, and below the 2.0 threshold multiple for EM. In other words, the 0.8 FAR Scenario was not found to be financial feasible, as it would not generate returns that would make it a desirable investment. Only by retaining the same rent revenue assumptions as the Proposed Project, assuming the lowest costs (including a lower PILOT Fee), and by assuming additional (unidentified) funding opportunities could the lesser-density project even approach a threshold feasibility, and that scenario is considered unlikely.<sup>28</sup> Whether or not the Applicant's claims of percentage reduction in revenues are accurate, AKRF expects some reduction in revenues on a psf basis as compared to the Proposed Project, and therefore under no reasonable circumstances was the 0.8 FAR Scenario found to be financially viable.

### ***PROJECT NEED FOR PILOT AGREEMENT***

This section presents AKRF's evaluation of whether the Project needs financial support in the form of a PILOT Agreement in order to be economically viable.

A PILOT Agreement would provide the Applicant with exemptions from sales taxes on construction materials and construction loan mortgage recording fees, but the greatest value to the Applicant is in the partial abatement of future property taxes over the term of the agreement. The cost savings for the

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<sup>28</sup> The Applicant does not anticipate that additional funding sources would be identified prior to the Village issuing findings on the FEIS. In addition, some funding sources could include requirements related to union labor that would diminish the value of the funding by increasing the Applicant's anticipated labor costs.

Applicant that are derived from a PILOT Agreement are necessarily tied to the assessed value of the Proposed Project, which is the basis for determining the Project's property taxes. As described previously, the DEIS assumed an assessed value for the Proposed Project of approximately \$130.5 million. Assuming the current cumulative Village millage rate<sup>29</sup> of \$40.71, an assessed value of \$130.5 million would result in property taxes of approximately \$5.3 million. The Applicant's Project pro forma model, reflecting the assumptions in the FEIS, proposes a first-year PILOT payment of \$3.35 million, with payments escalating by 2.5 percent per year. Assuming a \$130.5 million assessed value, the first-year PILOT fee proposed by the Applicant represents nearly two-thirds of full property taxes (36.7 percent abatement, or a cost savings of approximately \$1.9 million in the first year). Were the Project to be assessed at a higher value, the level of abatement and cost savings for the Applicant also would be higher (assuming the same \$3.35 million first-year PILOT fee).

The Applicant's Project pro forma, which assumes an FAR of 1.6 and the above-described first-year PILOT fee of \$3.35 million, results in Project return ratios that are greater than the thresholds established for a financially viable project (i.e., a YOC greater than 6.5 percent, and an EM greater than 2.0). However, because of the many cost factors associated with developing this project, the return ratios—including the PILOT advanced by the Applicant—are at the low end of the financial feasibility spectrum. Additional costs to the Applicant, in the form of higher PILOT payments, would decrease Project returns and endanger its financial feasibility.

The Applicant's financial projections for a "No PILOT Scenario," vetted by AKRF as described above, show that without a PILOT Agreement, the return ratios measuring financial feasibility would be well below minimum thresholds that investors would expect when investing in a comparable project. In terms of YOC, increasing property tax payments to the full amount would decrease the annual yield (i.e., NOI) by about 10 percent, while increasing overall Project costs. This would result in a YOC ratio that is below the feasibility benchmark of 6.5 percent. In terms of the EM, the effect is even more pronounced. Since the Applicant assumes to draw PILOT fee payments from the equity provided and not finance a major portion of the payments, increasing the PILOT fee would substantially increase the equity contributed to the project and therefore lower the EM well below the financial viability benchmark of 2.0.

Similar to the exercise conducted for the 0.8 FAR scenario, AKRF tested the Applicant's No PILOT Scenario model by inputting a reasonable range of alternative cost and revenue assumptions and observing their effect on the YOC and EM. For all reasonable assumptions, the returns for the No PILOT Scenario continued to fall below the 6.5 percent feasibility threshold for YOC, and below the 2.0 threshold multiple for EM. In other words, the No PILOT Scenario was not found to be financially feasible, as it would not generate returns that would make it a desirable investment.

AKRF's analysis found that absent new, unidentified, and substantial sources of grant funding for the Project, a reduction in property tax payments through a PILOT Agreement is necessary for the Project to be financially viable.<sup>30</sup> The net present value (NPV) of such funding would need to be comparable to the NPV of the PILOT savings, which as detailed below, is nearly \$17 million based on the PILOT Agreement described in the FEIS.

Overall, the Applicant's pro forma model shows that the Proposed Project is facing a number of obstacles which result in substantially higher costs than could be expected if the Project were to be executed in a

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<sup>29</sup> The millage rate, or mill rate, is the amount per \$1,000 of assessed value that is used to calculate taxes on property.

<sup>30</sup> The Applicant does not anticipate that additional funding sources would be identified prior to the Village issuing findings on the FEIS. In addition, some funding sources could include requirements related to union labor that would diminish the value of the funding by increasing the Applicant's anticipated labor costs.

greenfield development environment.<sup>31</sup> The higher-cost environment leads to returns that are at the lower end of the spectrum investors would expect, even with the PILOT as proposed. Decreasing the abatements would ultimately increase costs to the developer and change the return profile of the project so that it may not be financially feasible to execute the Project. Eliminating the abatement completely without substantial additional (unidentified) financial support would make the project financially infeasible.

***Impact of Restructuring PILOT - Uniform Tax Exemption Policy (UTEP)***

While there is no strict rule on how PILOTs are structured under the Uniform Tax Exemption Policy (UTEP), discussions with PCIDA revealed that a PILOT Agreement often includes a payment structure with a lower burden for the developer at the beginning of the project and then increasing PILOT payments over the term of the PILOT Agreement. For example, such a “ramp-up” could establish an abatement of as much as 100 percent of tax payments for the increase in property value attributed to the Project for the first quarter of the PILOT term, 75 percent for the second quarter, 50 percent for the third quarter, and 25 percent for the fourth and final quarter. Once the PILOT term has ended, the Project would pay full property taxes.

To better understand how changes in the structure of a PILOT Agreement and assessed value assumptions could affect the Project’s viability, and the fees from the Project collected by the Village over time, AKRF modelled the ramp-up abatement schedule described above for a set of psf tax rates to be expected for a similar-sized, high-value commercial project in the Town of Rye.<sup>32</sup> AKRF assumed three distinct scenarios with respect to the assessed value of the Project:

- **PILOT Scenario 1:** This scenario assumes a commercial tax rate of \$4 psf. Applying this tax rate would result in total annual first-year tax revenues of \$5.4 million and would equate to a total assessed value of approximately \$133 million. The assessment based on a \$4 psf tax rate is very similar to the assessment cited in the DEIS.
- **PILOT Scenario 2:** This scenario assumes a commercial tax rate of \$5 psf. The resulting first-year tax revenue would be \$6.8 million and the assessment would be \$166 million.
- **PILOT Scenario 3:** This scenario assumes a commercial tax rate of \$5.50 per square foot. This high-tax scenario would result in over \$7.4 million first-year tax revenues and an assessed value of approximately \$183 million.

**Table 3** shows substantial Project (Applicant) savings from paying a PILOT versus paying full property taxes over a 20-year time frame. Paying full property taxes would generate over \$110 million (approximately \$47 million NPV) of property taxes over 20 years. Paying a PILOT as proposed by the Applicant would result in significant savings to the Applicant of more than \$40 million over the life of a 20-year PILOT (approximately \$17 million NPV).

However, when compared to the Applicant’s proposed PILOT Agreement, the ramp-up PILOT payments for Scenarios 1, 2 and 3 would all result in lower total payments to the Village. Simply adding all payments for Scenario 1, for example, results in total payments of \$48 million, while payments from the proposed PILOT would yield \$71 million. Only ramp-up PILOT payments associated with the assessment of \$183 million would generate comparable non-discounted total tax payments (nearly \$65 million).

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<sup>31</sup> A greenfield development is a development project that is executed on a vacant undeveloped property. Because of the lack of major site preparation costs such as remediation, as often required in urban redevelopment projects, greenfield projects typically have significantly lower development costs.

<sup>32</sup> If The Waterfront at Port Chester would be taxed based on the existing assessment, it would achieve a tax rate of \$3.97 psf.

**Table 3**  
**PILOT Scenarios**

	Tax per sf	Assessed Value	First-Year Taxes or PILOT Payments	Sum Over 20-Year PILOT	NPV @ 8%
<b>Applicant Proposal</b>					
Projected property taxes	\$3.91	130,000,000	\$5,292,300	\$112,011,938	\$47,123,563
Proposed PILOT		-	\$3,350,000	\$71,382,644	\$30,256,644
<b>Applicant Savings</b>				<b>\$40,629,294</b>	<b>\$16,866,920</b>
<b>Ramp-Up Scenarios</b>					
PILOT Scenario 1	\$4.00	133,044,952	\$5,416,260	\$48,205,200	\$16,063,810
PILOT Scenario 2	\$5.00	166,306,190	\$6,770,325	\$59,088,465	\$19,212,466
PILOT Scenario 3	\$5.50	182,936,809	\$7,447,358	\$64,530,098	\$20,786,794

The difference is even more pronounced when the NPV of payments are compared. Since the ramp-up scenarios are back-loaded (i.e., largest payments occur in the latest phases), the discounting effect is much more prominent. As a result, the PILOT Scenario 1 has an NPV to the Village of \$16 million as compared to \$30 million for the PILOT Agreement proposed by the Applicant in the FEIS. Overall, the PILOT payments proposed by the Applicant, when viewed as a percentage of full property taxes, exceed what is commonly agreed upon for initial years of a PILOT Agreement.

Additional subsidies and incentives, such as infrastructure grants or tax incentives, also could be used to alter the PILOT Agreement while still maintaining Project feasibility. For example, one-time grants could help to reduce abatements granted by the Village, resulting in higher PILOT payments.

### ***BONUS DENSITY FEE***

A density bonus is an incentive-based tool that permits increases in the allowable development density for a property in exchange for specific public benefits desired by a community. The mechanisms used to implement density bonuses vary by municipality, but are established through a municipality's zoning code. The benefits may be monetary benefits that are dedicated to specific municipal improvement funds, or they may be physical improvements, such as the dedication of open space or the provision of public access to the waterfront.

The Village has an existing incentive zoning program that is codified in §345-16 of the Zoning Code. This section of the Village Code provides developers the opportunity to obtain additional density (FAR) and building height in exchange for providing a defined public benefit. Specifically, the Village Code provides that a density bonus may be awarded for a monetary contribution to one of three specific Village funds: Housing Rehabilitation; Open Space; or, Downtown Parking improvements. The monetary contribution is set by the Village based on the value that is created through the increase in project density. In no cases can the contribution be less than 15 percent of the value of the incremental increase in density. For example, if the additional density awarded by the Village increases the value of a project by \$1,000,000, the Village would set the density bonus at no less than \$150,000, which is 15 percent of the incremental project value.

In the DEIS the Applicant proposed a new incentive zoning program through their proposed Southern Gateway Mixed Use Overlay District. This new program would increase the ways in which an Applicant would provide the Village with public benefits in return for increased project density. Specifically, additional public benefit funds were added, as were several physical improvements, including increased parking downtown, open space, etc. However, the basic premise of the incentive zoning program remains the same: the Village is provided a public benefit in return for permitting an increase in project density.

In the DEIS, the Applicant proposed to utilize their proposed incentive zoning program through a one-time, \$1 million payment to the Village into four dedicated Village funds:

- \$250,000 towards a new municipal service facility;
- \$250,000 towards the Village waterfront and marina;
- \$250,000 towards Fox Island peninsula redevelopment; and
- \$250,000 towards the provision of publicly accessible or dedicated open space or enclosed program space anywhere in the Village.

The Applicant's proposed approach to providing community benefits is being revised for the FEIS.

### ***Land Residual Approach***

Using data available from the Applicant's financial models, AKRF performed a "land residual" analysis which estimates the change in the value of the land attributable to the proposed increase in allowable density. The land residual analysis applies a fundamental principle of real estate economics: the value of a parcel of land is a function of the development potential that land holds. Assuming that costs of construction, site preparation, and other hard costs can be reduced by economies of scale, and that achievable rents will remain constant (or even increase), an increase in allowable density on a parcel will increase the underlying value, or "residual value," of the parcel.

Based on financial information from the Applicant's 0.8 FAR Scenario model and the model for the Proposed Project, AKRF first estimated the total value of both development scenarios by dividing their NOI by a 6.5 percent Cap Rate; and then subtracted the total development cost of each scenario in order to arrive at the residual land value for each scenario. The calculation is shown as follows:

#### **(Stabilized NOI/6.5 percent Cap Rate) – Total Development Cost = Residual Land Value**

The residual land value calculation for the 0.8 FAR Scenario was negative (below \$0), indicating that the Project is infeasible. The residual land value calculation for the Project was approximately \$15 million. Therefore, the incremental residential land value for an increase in density from a hypothetical "break even" point to the density proposed by the Applicant is approximately \$15 million. In other words, the land residential analysis indicates that the density increase would generate approximately \$15 million in additional land value for the Applicant.

Based on an estimated \$15 million value increase, AKRF then worked to establish what portion of that value in the form of a fee would appropriately compensate the Village for the increase in density, while still adequately compensating the Applicant for the risks associated with the proposed development. AKRF's literature review on this point consistently found that the apportionment of land value between the municipality and landowner is case-specific. The value must be calibrated so there is sufficient value for the developer above the fee amount in order to incentivize additional development in light of a project's risks. Without this calibration of interests (i.e., if the municipality captures more than their "fair share"), developers would have little incentive to utilize the density bonus. In that case, neither party benefits; the Village receives no additional public benefit and the developer realizes no additional development potential.

The Village Zoning Code already contains values that could serve as a benchmark for establishing a density bonus fee for this zoning district. Village Code §345-16C states the following:

*"The payment for bonus floor area shall be calculated at a minimum of 15% of the assessed value of the bonus floor space, as determined by the Village Assessor."*

The statement relates to assessed value of bonus floor space, rather than residual land value. However, allowing assessed value to serve as a proxy, 15 percent of the approximately \$15 million residual land value would equate to an approximately \$2.25 million bonus density fee to be paid by the Applicant.

Applying a more literal interpretation of the Zoning Code to the Project would require better information on the ultimate assessed value for the Project. However, AKRF can apply the code's guidance to the range of assessed values that were considered for this analysis (i.e., from \$133 million to \$183 million).

The bonus floor area in the Zoning Code is capped at 0.2 FAR, so if the site were to be rezoned to a maximum allowable FAR of 1.4, and the Applicant was subsequently granted a 0.2 FAR bonus, the minimum payment for that additional 0.2 FAR would be calculated as follows:

**Incremental assessed value of bonus density = 0.2 bonus FAR/1.6 total FAR = 0.125**

**Payment on bonus density = 0.125 \* Full Assessed Value \*15 percent**

Based on the \$130 million assessed value estimate in the DEIS, using the logic above, the bonus payment would be greater than or equal to approximately \$2.45 million. Based on the high-end \$183 million assessed value used for this analysis, the bonus payment would be approximately \$3.43 million.

### *Alternative Public Benefits Approach*

In the DEIS (p.E-14) the Applicant contends that the proposed traffic and transportation improvement program goes well beyond the mitigation that would typically be required under SEQRA, and that the resulting improvements, requiring an expenditure of more than \$2.0 million above what would otherwise be required under SEQRA, enhances circulation along a significant stretch of the Boston Post Road corridor and should be considered a public benefit to be “credited” against the density bonus fee. Similarly, the Applicant’s proposed Southern Gateway Mixed Use Overlay Zoning District identified a series of potential public benefits—including the provision of publicly accessible open space and rebuilding existing utility infrastructure—that the Applicant contends should be used as a basis for increasing FAR.

While the Proposed Project in general and some off-site infrastructure improvements in particular, would have ancillary/off-site benefits to the public, the cost associated with such mitigation should not be applied toward a density bonus fee. There are numerous ancillary public benefits that a development project might generate within a community, and AKRF did not identify any clear precedents for the monetization of such benefits in order to offset development fees. However, improvements requested of the Project by the Village that are not required by the Zoning Code or to mitigate identified potential significant adverse environmental impacts, if any, could, in AKRF’s view, be considered a “public benefit” that may be monetized for purposes of a density bonus fee.

### *Conclusion*

AKRF’s estimate of a bonus density fee appropriate for the additional FAR sought by the Applicant ranges from approximately \$2.4 million to \$3.4 million—well above the \$1 million amount advanced by the Applicant in the DEIS. Ultimately it is for the Village to decide whether bonus density should be granted, and if so, to establish a fee to be paid by the Applicant. In establishing a fee, AKRF recommends bearing in mind the following considerations:

- AKRF’s analysis, which employed multiple approaches, consistently found appropriate fee ranges in excess of the \$1 million amount advanced by the Applicant in the DEIS.
- AKRF tested the fee range increments within the Applicant’s models to determine whether additional fee amounts within the \$2.4 million to \$3.4 million range would make the Project economically infeasible; this was found not to be the case.
- The additional density sought by the Applicant has been reviewed for its potential environmental impacts, including fiscal impacts, as part of the DEIS, and mitigation has been advanced to address the environmental impacts of the additional density.
- Project improvements requested by the Village that go beyond Project mitigation, and that can be fairly “unbundled” from costs necessary to mitigate Project impacts, could be considered a “public benefit” that may be monetized for purposes of a density bonus fee. However, the Applicant’s costs put towards mitigation or other proposed improvements that may have ancillary/off-site benefits should not be applied toward a density bonus fee.
- A successfully-executed project would generate substantial public benefits that, if fully monetized, would exceed by orders of magnitude the one-time density bonus fee. \*



**VILLAGE OF PORT CHESTER**  
**DEPARTMENT OF PLANNING & ECONOMIC**  
**DEVELOPMENT**

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Eric Zamft, AICP, Director  
Andrea Sherman, Assistant Planner  
Constance Phillips, Planning Commission Secretary

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**MEMORANDUM**

**From:** Department of Planning & Economic Development  
**To:** Board of Trustees  
**Date:** April 20, 2016  
**RE:** Starwood/United Hospital – Proposed PMU District Zoning Text Amendments

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In the Draft Environmental Impact Statement (“DEIS”), the Applicant proposed two potential zoning options:

- 1) The creation of a Southern Gateway Mixed Use Overlay Zoning District (the “Overlay District”), which would include land area beyond the Project Site (i.e., the Kohl’s Shopping Center) and included design guidelines, review criteria, and density bonus provisions that would allow a maximum of a Floor Area Ratio (“FAR”) of 1.7;
- 2) Revise the existing PMU District, with the significant change being to allow for an as of right FAR of 1.6 compared to the current 0.8, without the need for a density bonus. This second option was limited to the Project Site alone.

Based upon the comments received at the DEIS Public Hearing and during the comment period, and input from Village staff and consultants, we believe that the Applicant will formally propose only the option to revise the existing PMU District and not pursue the Overlay District. The Applicant is currently proposing different revisions to the PMU District than were proposed in the DEIS. These include:

- Providing a more detailed list of permitted uses (see § 345-62B)
- Clarifying special exception uses (see § 345-62B(3))
- Establishing specific dimensional requirements, such as a baseline FAR of 1.4, maximum height of 8 stories/115 feet, and a maximum of 90% coverage (see § 345-62D)  
Including incentive zoning and community benefit provisions, similar to the Village’s existing density and height bonus provisions (see § 345-62E) – In particular, the zoning would allow an increase to 1.6 FAR with the provision of a monetary contribution to a number of listed community benefits (Village Housing Rehabilitation Program, Village Open Space Fund, Village Job-Training Fund, and/or Village Affordable Housing Fund)
- Including a number of design guidelines and criteria (§ 345-62F)
- Establishing the site plan approval process with the Board of Trustees (§ 345-62H)

The Applicant will present their proposed zoning text amendments in detail at the April 26, 2016 Board of Trustees Special Meeting/Workshop. Beyond the Board workshop, per Village Code, should the Board wish to move the project forward, there would be a separate Public Hearing on the zoning later this year.

**§ 345-62. PMU Planned Mixed Use District****A. Purpose of district.**

- (1) It is the purpose of the Planned Mixed Use (PMU) District to provide opportunity for appropriately scaled and context-sensitive redevelopment to replace the decommissioned hospital located at 406 Boston Post Road (Section 141.052, Block 1, Lot 2, and Section 141.052, Block 1, Lot 2.4) and the adjacent twelve-story residential apartment building located at 999 High Street (Section 141.052, Block 1, Lot 2.1), which together comprise approximately 15 acres, the largest remaining development site in the Village.
- (2) This section provides the criteria so that mixed use development, including a variety of commercial, office, residential, and community facility uses, may be planned and developed in a unified manner.

**B. Uses. The creation of a mixed use development shall be comprised of one or a combination of the following uses:**

- (1) Permitted principal uses.
  - (a) Multifamily dwellings containing efficiency, one-bedroom and two-bedroom units only; age-restricted housing (e.g., 55+); convalescent home or nursing home.
  - (b) Hotel or motel
  - (c) Bar or tavern; catering or events establishment; cabaret; table service restaurant, no drive-in, open-front, fast-food or curbside types.
  - (d) Assembly hall; membership club; fraternal organization or similar social institution not operated for a profit.
  - (e) Health club, including racquetball facilities and indoor swimming pools; commercial indoor athletic training facility; bowling alley.
  - (f) Theater.
  - (g) Retail store or personal service shop.
  - (h) Office; office building; bank, excluding drive-in.
  - (i) Off-street parking lot or garage for motor vehicles; minimum requirements shall be in accordance with § 345-14.
  - (j) Ground-floor office as accessory use to multifamily development.
- (2) Permitted accessory uses.
  - (a) Private garage or private off-street parking area, in accordance with § 345-14.
  - (b) Sign, in accordance with § 345-15.
- (3) Special exception uses:
  - (a) Church or other place of worship, parish house, rectory, Sunday school, convent, seminary; customary accessory structure or use, including cultural, recreational or athletic facility, meeting room or similar accessory structure or use related to a school, church or other place of worship.
  - (b) Hospital; medical and dental offices; ethical pharmacy.

- (c) School, elementary or high, public, private or parochial, having a curriculum equivalent to that ordinarily given in public schools; nursery school, day camp or day-care center.
- (d) Funeral home.
- (e) Radio or television station studio; excluding transmission tower.
- (f) Veterinary hospital or board and care of small animals.

C. Dimensional standards and requirements.

- (1) The maximum floor area ratio (FAR) for all uses shall be 0.80, excluding any incentive density increases which may be granted pursuant to the requirements set forth in § 345-67, with approval by the Village Board of Trustees.
- (2) The maximum floor area ratio (FAR) for hotel/conference uses shall be 0.40.
- (3) The maximum floor area ratio (FAR) for commercial uses shall be 0.20.
- (4) The maximum floor area ratio (FAR) for residential uses shall be 0.20.
- (5) The maximum floor area ratio (FAR) for age-restricted (e.g. 55+) and/or assisted-living uses shall be 0.30.
- (6) The maximum floor area ratio (FAR) for community facility uses shall be 0.10.
- (7) The maximum site coverage (buildings, access roads and parking, but excluding walkways) shall be 70%.
- (8) The maximum building height for hotel uses shall be eight stories or 85 feet.
- (9) The maximum building height for mixed use (commercial/residential) structures shall be five stories or 55 feet. A maximum building height of eight stories or 85 feet shall be allowable by special exception, subject to approval by the Board of Trustees and excluding any incentive density increases which may be granted pursuant to the requirements set forth in § 345-67.
- (10) A building height bonus of two stories or 15 feet over the maximum building height allowable by special exception is available pursuant to the requirements set forth in § 345-16, with approval by the Village Board of Trustees.
- (11) With respect to mixed use (commercial/residential) structures, the ground floor space shall consist only of commercial uses; upper floor space shall consist only of residential uses.

D. Approvals. The Village Board of Trustees is hereby authorized to grant site plan approval under Article V, Administration and Enforcement and special exception use approval under Article X, Special Exception Use Regulations.

**§ 345-62. PMU Planned Mixed Use District****A. Purpose of district.**

- (1) It is the purpose of the Planned Mixed Use (PMU) District to provide an opportunity for appropriately scaled and context-sensitive redevelopment to replace the decommissioned hospital located at 406 Boston Post Road and/or the adjacent twelve-story residential apartment building located at 999 High Street, which together comprise the largest remaining potential development site in the Village, at approximately 15 acres, and a prominent gateway to the Village.
- (2) This section provides the criteria and design standards so that high-quality, mixed-use development, including a variety of commercial, office, residential, and community facility uses, may be planned and developed in a unified and architecturally appropriate manner. The mixed-use development shall encourage active pedestrian uses through appropriately designed, furnished, lighted, and planted streetscapes and open spaces.
- (3) This section creates an incentive zoning program, similar to the one contained in §345-16, but tailored to the type of integrated mixed-use development envisioned for the PMU District in the 2012 Village of Port Chester Comprehensive Plan (“Comprehensive Plan”). It provides a mechanism for the community to receive one or more defined community benefits that would not otherwise be provided in exchange for an Applicant receiving additional development density.
- (4) The development standards contained in this section shall apply to the “PMU site”, known as Section 141.052, Block 1, Lot 2, and Section 141.052, Block 1, Lot 2.4 and Section 141.052, Block 1, Lot 2.1 on the Boundary Survey titled Topographic Survey, prepared by Barrett, Bonacci & Van Weele, PC and dated August 5, 2014 and revised through January 17, 2015, available in the Village Clerk’s office.

**B. Uses.** The creation of a mixed-use development on the PMU site shall be comprised of one or a combination of the following uses. No uses shall include a drive-thru window.

- (1) Permitted principal uses.
  - (a) Multifamily dwellings containing efficiency, one-bedroom and two-bedroom units only.
  - (b) Age-restricted housing (e.g., 55+).
  - (c) Convalescent home or nursing home.
  - (d) Hotel or motel.
  - (e) Limited service hotel.
  - (f) Bar or tavern.
  - (g) Catering or events establishment.
  - (h) Cabaret.
  - (i) Restaurant including outdoor seating, no drive-in restaurant.
  - (j) Fast Food restaurant including outdoor seating and/or

- kiosk, no drive-in window
- (k) Assembly hall, membership club, fraternal organization or similar social institution not operated for a profit;
  - (l) Health club, including racquetball facilities and indoor swimming pools;
  - (m) Commercial indoor athletic training facility;
  - (n) Bowling alley;
  - (o) Theater;
  - (p) Retail or personal services;
  - (q) Office;
  - (r) Medical and dental offices including x-ray and therapy rooms;
  - (s) Bank;
  - (t) Home professional office;
  - (u) Off-street parking lot or garage for motor vehicles;
  - (v) Research institute or laboratory; and
  - (w) Uses operated by the Port Chester-Rye Brook Library, or Port Chester-Rye Union Free School District.
- (2) Permitted accessory uses.
- (a) Private garage or private off-street parking area.
  - (b) Signs, in accordance with the requirements of this section.
  - (c) Plazas accessible to the public
- (3) Special exception uses:
- (a) Board of Trustees
    - [1] Church or other place of worship, parish house, rectory, Sunday school, convent, seminary; customary accessory structure or use, including cultural, recreational or athletic facility, meeting room or similar accessory structure or use related to a school, church or other place of worship.
    - [2] Hospital; ethical pharmacy.
    - [3] School, elementary or high, public, private or parochial, having a curriculum equivalent to that ordinarily given in public schools; nursery school, day camp or day-care center.
    - [4] Veterinary hospital or board and care of small animals.
  - (b) Planning Commission
    - [1] Wireless Telecommunication Facilities

C. Dimensional standards and requirements.

- (1) Dimensional standards shall apply to the PMU site as a whole, as defined in §345-62A(4) above. All buildings and site coverage within the “PMU site” shall count toward

calculations of floor area ratio (“FAR”), site coverage and all other dimensional requirements. For purposes of calculating FAR, site coverage, building coverage, and other dimensional requirements, the “lot area” for the PMU is considered to be the total area of the PMU site.

- (2) The maximum FAR for all uses shall be 1.4, excluding any incentive density increases which may be granted pursuant to the provisions of paragraph (E), below.
- (3) The minimum FAR for all non-residential uses shall be 25%.
- (4) The maximum site coverage (buildings, access roads and parking, but excluding walkways) shall be 90%.
- (5) The maximum building height shall be the lesser of eight stories or 115 feet.
- (6) A minimum of 100 square feet per dwelling unit of usable open space shall be provided on the site.

#### D. Parking and loading

- (1) Off street parking and loading areas shall be designed and located based on a site-wide plan approved as part of a site plan approval.
- (2) In order to soften the appearance of parking lots, parking lots shall be landscaped with groundcover, grasses, or low shrubs.
- (3) The Board of Trustees, pursuant to its authority under §345-62.G, may reduce the number of off-street parking and loading spaces required by §345-14 based upon a finding that, owing to the combination of uses proposed, adherence to the off-street parking and loading standards in §345-14 would result in the construction of unnecessary off-street parking spaces. This finding must be based on a shared parking/loading analysis completed by the Applicant and approved by the Board of Trustees at its discretion as determined during the site plan approval process. Shared parking and loading approvals shall be conditions of site plan approval and will be enforceable on all subsequent owners of property within the PMU site.

#### E. Zoning Incentives and Community Benefits Program.

- (1) Owing to the existing conditions of the lots within the PMU District and the unique nature of the integrated mixed-use development envisioned for the PMU District by the Comprehensive Plan, in accordance with §7-703 of the Village Law of the State of New York, the Village finds it necessary to provide for a system of zoning incentives in exchange for specific community benefits.
- (2) Applicants for new development within the PMU district shall earn additional development potential in the form of additional FAR by providing one or more community benefits as described below.
- (3) In no cases shall the maximum FAR for a site, including additional floor area granted pursuant to this section, be more than 1.60.
- (4) Applicants making a monetary contribution in the amount of \$1,000,000 to one or more of the following Village community benefit funds shall be eligible for up to an additional 0.2 FAR:
  - (a) The Village Housing Rehabilitation Program

- (b) The Village Open Space Fund
  - (c) The Village Job-Training Fund
  - (d) The Village Affordable Housing Fund
- (5) In accordance with §7-703h of the Village Law of the State of New York, the funds listed in §345-62(E)(4) shall be kept by the Village as dedicated funds in a separate account to be used only for their respective purposes of housing rehabilitation, open space, job-training, and affordable housing.

F. Design Criteria. In order to implement the vision of an integrated mixed-use development envisioned by the Comprehensive Plan, the following design requirements shall apply to all development within the PMU District. Applications for site plan approval shall include specific design standards, to be approved by the Board of Trustees, which implement these requirements.

- (1) Projects shall consider all contiguous lots proposed to be included within a proposed development as one 'site' and the site plan shall reflect this integrated design concept.
- (2) Projects shall feature an interior street grid and limit the use of dead end streets.
- (3) Adequate facilities for pedestrians and bicycles shall be provided and the site plan shall demonstrate that adequate and safe circulation for pedestrians and bicyclists exists within the site and between the site and the surrounding land area.
- (4) Facilities for alternative modes of transportation, including mass-transit, pedestrian, and bicycles, shall be integrated into the site design to the maximum extent practicable.
- (5) Commercial uses shall front the street-level along Boston Post Road.
- (6) Public access to Abendroth Park shall be provided to the maximum extent practicable.
- (7) Street-level architecture shall re-inforce the importance of the pedestrian and public realms. Ribbon windows are discouraged, while windows that are distinguished from the shaft of the building through the use of arches, pediments, mullions, and other treatments are encouraged.
- (8) Facades visible from Boston Post Road and Interstate 287 (I-287) shall reflect the architectural significance of their location within the site and their significance as a gateway into the Village of Port Chester.
- (9) Sites shall contain a variety of building design types to avoid excessive similarity in visual appearance.
- (10) Buildings shall be architecturally broken up vertically into a base (first-floor only), middle, and top. Likewise, buildings should be broken up architecturally into bays. These sections should be defined by building articulation or change in materials. No solid expanse of wall may exceed 30 feet in length.
- (11) Architectural elements such as cornices, belt courses, corbelling, molding, string courses, ornamentation, changes in material or color, and other sculpturing of the base shall be provided to add special interest.
- (12) Vinyl siding of any type or grade shall be prohibited on any building façade.
- (13) Parking structures shall be screened from Boston Post Road and any primary internal roadways with building uses or shall include architectural materials, elements, and

treatments that are consistent with the design and quality of the proximate buildings. No vehicles shall be visible from the Boston Post Road or any primary internal roadway, except at the entrances to the structure. Where residential buildings face onto garage facades within 100', garage spandrels facing those residential buildings shall be high enough (at least 30") to block light from car headlights.

- (14) Ramps servicing levels of parking shall be internal and not visible from Boston Post Road and any primary internal roadway.
- (15) Rooftop mechanical equipment shall be screened.
- (16) Wireless antennae shall be screened, appropriately masked or otherwise be "stealthed".
- (17) The streetscape, including any open space, shall be appropriately furnished to facilitate the goals of the PMU District, including the activation of the site for pedestrian use. A specific palette of street tree, lighting, sidewalk, and furnishing components shall be submitted by an Applicant for site plan approval and shall be approved by the Board of Trustees.
- (18) Signs within the PMU District shall be of varied types, sizes, and styles. A consistent approach to signage that favors expressions of tenant identity is encouraged. Allowed signage types include, but are not limited to, flat mounted signs, awning signs, canopy signs, blade signs, flags and banners, wall signs, window signs, entry embeds, sidewalk signs (menu boards) and temporary signs.
- (19) Applications for site plan approval shall include a sign management plan, which details the types, sizes, locations, and illumination of signs that are proposed to be permitted in the various portions of the PMU site. Signs may be of any durable material and shall be of a high level of craftsmanship. Signs shall be limited to a business' name, logo or three-dimensional symbol and brief descriptive tagline (i.e., restaurant and bar, homemade ice cream). The sign management plan shall be reviewed and subject to the approval of the Board of Trustees.

G. Green Building and Site Planning. The intent of this subsection is to identify new and refer to the existing green building regulations within the Code of the Village of Port Chester. All new development within the PMU District shall adhere to the regulations contained in this subsection.

- (1) Any application for new commercial, mixed-use, or multi-family buildings shall provide a completed Leadership in Energy and Environmental Design for Neighborhood Development (LEED-ND) checklist, Enterprise Green Communities checklist, Institute of Sustainable Infrastructure (ISI) Envision checklist, or equivalent green project checklist acceptable to the Director of Planning and Economic Development or his/her designee.
- (2) All new development shall conform to Chapter 281, Stormwater Management, of the Code of the Village of Port Chester.
- (3) All new development shall conform to the applicable requirements set forth in the most current version of the New York State Stormwater Design Manual, as interpreted by the Village of Port Chester, especially Chapter 5, Green Infrastructure Practices.
- (4) Energy- and water-efficient fixtures and building technologies shall be incorporated that meet the requirements of the New York State Energy Code.

- (5) Pervious paving shall be permitted on all sites.
- (6) Green roofs shall be permitted for all building types.
- (7) The recycling of construction waste shall be required.

#### H. Site Plan Approval

- (1) The Board of Trustees shall be the approving agency for site plan applications and modifications within the PMU District, excluding special exception permits for wireless telecommunication facility only applications.
- (2) The Board of Trustees, in exercising this authority, will follow the procedures and criteria in §345-23(C), (D), and (E), except that a Pre-Submission Conference (§345-23(C)) need not be held if an Environmental Impact Statement had previously been prepared that contemplated a site plan substantially similar to the plan being submitted for approval.
- (3) All site plan applications shall adhere to the submission procedures as listed in §345-23(C) and contain the information listed in §345-23(F) and comply with the standards of §345-23(G) and (H).
- (4) The Board of Trustees shall refer the site plan application to the Planning Commission for its review and recommendation.

#### I. Severability. Conflicts with Other Provisions.

- (1) If any clause, sentence, paragraph, subdivision, section or other part of this Article shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair or invalidate the remainder of this Article, and it shall be construed to have been the legislative intent to enact this Article without such unconstitutional or invalid parts therein.
- (2) If any portion of this Article is found to be in conflict with any other provision of any other local law or ordinance of the Code of the Village of Port Chester, the provision which establishes the higher standard shall prevail.

#### **Add a new section: §345-59(D)(3) as follows:**

- (3) Notwithstanding the above, the Board of Trustees shall have jurisdiction for all applications for all special exception uses within the PMU District, with the exception of wireless telecommunications facilities. When a wireless telecommunication facility is proposed as part of a site plan or site plan amendment and no other use or site plan element is proposed or amended, the Planning Commission shall have jurisdiction pursuant to Article XVIII. When a wireless telecommunication facility is proposed as part of a site plan or site plan amendment and other uses or site plan elements are proposed or amended, the Board of Trustees shall have jurisdiction.

#### **Amend 345-16, in part, as follows:**

(B)(1). The bonus program is available in the C2 Main Street Business, C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional[, PMU Planned Mixed Use], and DW2 Downtown Design Waterfront Districts. (See Schedule of Regulations for Nonresidence Districts,

Attachment 3B.) by special exception only, and is subject to approval by the Village Board of Trustees.

(B)(3). Projects in the C5 Train Station Mixed Use[, and C5T Downtown Mixed Use Transitional[, and PMU Planned Mixed Use] Districts are permitted to use both the building height and floor area options. (See Schedule of Regulations for Nonresidence Districts, Attachment 3B.)

(C)(1). In the C2 Main Street Business, C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional[, PMU Planned Mixed Use], and DW2 Downtown Design Waterfront Districts, additional development potential in the form of floor area can be earned for a project when the project includes any of the specified provisions listed herein. The bonus floor area amount is additional to the maximum floor area ratio in the respective district. (See Schedule of Regulations for Nonresidence Districts, Attachment 3B.)

(D)(1). Bonus building height is also earned in the C5 Train Station Mixed Use, and C5T Downtown Mixed Use Transitional[, and PMU Planned Mixed Use] Districts in addition to the bonus floor area achieved through the provisions established in this section. Bonus height is in addition to the maximum building height in the respective district, as established in the Schedule of Regulations for Nonresidence Districts, Attachment 3B. Bonus height is earned by contributing to any of the three provisions specified in § **345-16C(3), (4) and (5)** above.

**Amend bulk tables to:**

Include PRD requirements. Add footnote to say that bulk PMU standards apply to whole PMU site.

**Amend §345-2B:**

Add definitions.

**GREEN ROOF**

A building roof that is engineered to be covered with low-maintenance growing plants that: insulate in winter, cool the building in summer, reduce solar absorption, reduce precipitation runoff from roof surfaces, and improve interior heating, ventilating and air conditioning (HVAC) efficiency.

**PERVIOUS PAVING**

A hard surface with load bearing capacity engineered to allow for the passage of water through it. The surface may be comprised of paving blocks with open corners, lattices or edges or asphalt/concrete mixes without "fines."

**PLAZA**

An area predominantly open to the sky that is generally open to the public and used for passive recreational activities and relaxation. Plazas are paved areas typically provided with amenities, such as seating, drinking and ornamental fountains, art, trees, and landscaping for use by pedestrians.”

Remove definition for “Research Institute or Laboratory” and replace with:

**RESEARCH INSTITUTE OR LABORATORY**

A structure that contains research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, or sale of products. Such uses shall not be detrimental to the environment through the release of dust, smoke, fumes, odor, noise, or vibration and shall not create an unsafe risk of fire or explosion given the location of the use, the building in which it is located, and the nature of the surrounding uses and structures.

**DRAFT**

**§ 345-62. PMU Planned Mixed Use District**

## A. Purpose of district.

- (1) It is the purpose of the Planned Mixed Use (PMU) District to provide an opportunity for appropriately scaled and context-sensitive redevelopment to replace the decommissioned hospital located at 406 Boston Post Road (~~Section 141.052, Block 1, Lot 2, and Section 141.052, Block 1, Lot 2.4~~) and/or the adjacent twelve-story residential apartment building located at 999 High Street (~~Section 141.052, Block 1, Lot 2.1~~), which together comprise ~~approximately 15 acres~~, the largest remaining potential development site in the Village, at approximately 15 acres, and a prominent gateway to the Village.
- (2) This section provides the criteria and design standards so that high-quality, mixed-use development, including a variety of commercial, office, residential, and community facility uses, may be planned and developed in a unified manner and architecturally appropriate manner. The mixed-use development shall encourage active pedestrian uses through appropriately designed, furnished, lighted, and planted streetscapes and open spaces.
- (3) This section creates an incentive zoning program, similar to the one contained in §345-16, but tailored to the type of integrated mixed-use development envisioned for the PMU District in the 2012 Village of Port Chester Comprehensive Plan (“Comprehensive Plan”). It provides a mechanism for the community to receive one or more defined community benefits that would not otherwise be provided in exchange for an Applicant receiving additional development density.
- (4) The development standards contained in this section shall apply to the “PMU site”, known as Section 141.052, Block 1, Lot 2, and Section 141.052, Block 1, Lot 2.4 and Section 141.052, Block 1, Lot 2.1 on the Boundary Survey titled Topographic Survey, prepared by Barrett, Bonacci & Van Weele, PC and dated August 5, 2014 and revised through January 17, 2015, available in the Village Clerk’s office.

B. Uses. The creation of a mixed-use development on the PMU site shall be comprised of one or a combination of the following uses: No uses shall include a drive-thru window.

- (1) Permitted principal uses.
  - (a) Multifamily dwellings containing efficiency, one-bedroom and two-bedroom units only; ~~age restricted housing (e.g., 55+); convalescent home or nursing home.~~
  - (b) Age-restricted housing (e.g., 55+).
  - (c) Convalescent home or nursing home.
  - (d) Hotel or motel.
  - ~~(e)~~ (e) Limited service hotel.
  - (f) Bar or tavern; catering.
  - (g) Catering or events establishment; ~~cabaret; table service restaurant.~~
  - (h) Cabaret.

- (i) Restaurant including outdoor seating, no drive-in, ~~open front, fast food or curb service types restaurant.~~
- ~~(d)~~ (j) Fast Food restaurant including outdoor seating and/or kiosk, no drive-in window
- (k) Assembly hall; membership club; fraternal organization or similar social institution not operated for a profit;
- ~~(e)~~ Health club, including racquetball facilities and indoor swimming pools; ~~commercial~~
- (m) Commercial indoor athletic training facility; ~~bowling~~
- (n) Bowling alley;
- ~~(f)~~ Theater;
- (g) Retail ~~store~~ or personal ~~service shop services;~~
- ~~(h)~~ Office;
- (r) Medical and dental offices including x-ray and therapy rooms;
- (s) Bank;
- (t) Home professional office ~~building; bank, excluding drive-in;~~
- ~~(u)~~ Off-street parking lot or garage for motor vehicles; ~~minimum requirements shall be in accordance with § 345-14.~~
- ~~(j) Ground floor office as accessory use to multifamily development.~~
- (v) Research institute or laboratory; and
- (w) Uses operated by the Port Chester-Rye Brook Library, or Port Chester-Rye Union Free School District.
- (2) — Permitted accessory uses.
- (a) Private garage or private off-street parking area, ~~in accordance with § 345-14.~~
- (b) ~~Sign~~ Signs, in accordance with ~~§ 345-15~~ the requirements of this section.
- (c) Plazas accessible to the public
- (3) Special exception uses:
- (a) Board of Trustees
- [1] Church or other place of worship, parish house, rectory, Sunday school, convent, seminary; customary accessory structure or use, including cultural, recreational or athletic facility, meeting room or similar accessory structure or use related to a school, church or other place of worship.
- [2] Hospital; ethical pharmacy.
- [3] School, elementary or high, public, private or parochial, having a curriculum equivalent to that ordinarily given in public schools; nursery school, day camp or day-care center.
- ~~(d) Funeral home.~~

~~(e) Radio or television station studio; excluding transmission tower.~~

~~(f)[4] Veterinary hospital or board and care of small animals.~~

(b) Planning Commission

[1] Wireless Telecommunication Facilities

C. Dimensional standards and requirements.

~~(1) The maximum Dimensional standards shall apply to the PMU site as a whole, as defined in §345-62A(4) above. All buildings and site coverage within the “PMU site” shall count toward calculations of floor area ratio (“FAR”), site coverage and all other dimensional requirements. For purposes of calculating FAR, site coverage, building coverage, and other dimensional requirements, the “lot area” for the PMU is considered to be the total area of the PMU site.~~

~~(2) The maximum FAR for all uses shall be 0.801.4, excluding any incentive density increases which may be granted pursuant to the requirements set forth in § 345-67, with approval by the Village Board of Trustees provisions of paragraph (E), below.~~

~~(2-3) The maximum floor area ratio (FAR) for hotel/conference uses shall be 0.40.~~

~~(3) The maximum floor area ratio (FAR) minimum FAR for commercial uses shall be 0.20.~~

~~(4) The maximum floor area ratio (FAR) for all non-residential uses shall be 0.20.25%.~~

~~(5) The maximum floor area ratio (FAR) for age restricted (e.g. 55+) and/or assisted living uses shall be 0.30.~~

~~(6) The maximum floor area ratio (FAR) for community facility uses shall be 0.10.~~

~~(7-4) The maximum site coverage (buildings, access roads and parking, but excluding walkways) shall be 7090%.~~

~~(8-5) The maximum building height for hotel uses shall be the lesser of eight stories or 85115 feet.~~

~~(9) The maximum building height for mixed use (commercial/residential) structures shall be five stories or 55 feet. A maximum building height of eight stories or 85 feet shall be allowable by special exception, subject to approval by the Board of Trustees and excluding any incentive density increases which may be granted pursuant to the requirements set forth in § 345-67.~~

~~(10) A building height bonus of two stories or 15 feet over the maximum building height allowable by special exception is available pursuant to the requirements set forth in § 345-16, with approval by the Village Board of Trustees.~~

~~(11) With respect to mixed use (commercial/residential) structures, the ground floor space shall consist only of commercial uses; upper floor space shall consist only of residential uses.~~

~~D. Approvals. The (6) A minimum of 100 square feet per dwelling unit of usable open space shall be provided on the site.~~

D. Parking and loading

- (1) Off street parking and loading areas shall be designed and located based on a site-wide plan approved as part of a site plan approval.
- (2) In order to soften the appearance of parking lots, parking lots shall be landscaped with groundcover, grasses, or low shrubs.
- (3) The Board of Trustees, pursuant to its authority under §345-62.G, may reduce the number of off-street parking and loading spaces required by §345-14 based upon a finding that, owing to the combination of uses proposed, adherence to the off-street parking and loading standards in §345-14 would result in the construction of unnecessary off-street parking spaces. This finding must be based on a shared parking/loading analysis completed by the Applicant and approved by the Board of Trustees at its discretion as determined during the site plan approval process. Shared parking and loading approvals shall be conditions of site plan approval and will be enforceable on all subsequent owners of property within the PMU site.

E. Zoning Incentives and Community Benefits Program.

- (1) Owing to the existing conditions of the lots within the PMU District and the unique nature of the integrated mixed-use development envisioned for the PMU District by the Comprehensive Plan, an in accordance with §7-703 of the Village Law of the State of New York, the Village finds it necessary to provide for a system of zoning incentives in exchange for specific community benefits.
- (2) Applicants for new development within the PMU district shall earn additional development potential in the form of additional FAR by providing one or more community benefits as described below.
- (3) In no cases shall the maximum FAR for a site, including additional floor area granted pursuant to this section, be more than 1.60.
- (4) Applicants making a monetary contribution in the amount of \$1,000,000 to one or more of the following Village Board of Trustees is hereby authorized to grant community benefit funds shall be eligible for up to an additional 0.2 FAR:
  - (a) The Village Housing Rehabilitation Program
  - (b) The Village Open Space Fund
  - (c) The Village Job-Training Fund
  - (d) The Village Affordable Housing Fund
- (5) In accordance with §7-703h of the Village Law of the State of New York, the funds listed in §345-62(E)(4) shall be kept by the Village as dedicated funds in a separate account to be used only for their respective purposes of housing rehabilitation, open space, job-training, and affordable housing.

F. Design Criteria. In order to implement the vision of an integrated mixed-use development envisioned by the Comprehensive Plan, the following design requirements shall apply to all development within the PMU District. Applications for site plan approval under Article V, Administration and Enforcement and special exception shall include specific design standards, to be approved by the Board of Trustees, which implement these requirements.

- (1) Projects shall consider all contiguous lots proposed to be included within a proposed development as one 'site' and the site plan shall reflect this integrated design concept.
- (2) Projects shall feature an interior street grid and limit the use of dead end streets.
- (3) Adequate facilities for pedestrians and bicycles shall be provided and the site plan shall demonstrate that adequate and safe circulation for pedestrians and bicyclists exists within the site and between the site and the surrounding land area.
- (4) Facilities for alternative modes of transportation, including mass-transit, pedestrian, and bicycles, shall be integrated into the site design to the maximum extent practicable.
- (5) Commercial uses shall front the street-level along Boston Post Road.
- (6) Public access to Abendroth Park shall be provided to the maximum extent practicable.
- (7) Street-level architecture shall re-inforce the importance of the pedestrian and public realms. Ribbon windows are discouraged, while windows that are distinguished from the shaft of the building through the use of arches, pediments, mullions, and other treatments are encouraged.
- (8) Facades visible from Boston Post Road and Interstate 287 (I-287) shall reflect the architectural significance of their location within the site and their significance as a gateway into the Village of Port Chester.
- (9) Sites shall contain a variety of building design types to avoid excessive similarity in visual appearance.
- (10) Buildings shall be architecturally broken up vertically into a base (first-floor only), middle, and top. Likewise, buildings should be broken up architecturally into bays. These sections should be defined by building articulation or change in materials. No solid expanse of wall may exceed 30 feet in length.
- (11) Architectural elements such as cornices, belt courses, corbelling, molding, string courses, ornamentation, changes in material or color, and other sculpturing of the base shall be provided to add special interest.
- (12) Vinyl siding of any type or grade shall be prohibited on any building façade.
- (13) Parking structures shall be screened from Boston Post Road and any primary internal roadways with building uses or shall include architectural materials, elements, and treatments that are consistent with the design and quality of the proximate buildings. No vehicles shall be visible from the Boston Post Road or any primary internal roadway, except at the entrances to the structure. Where residential buildings face onto garage facades within 100', garage spandrels facing those residential buildings shall be high enough (at least 30") to block light from car headlights.
- (14) Ramps servicing levels of parking shall be internal and not visible from Boston Post Road and any primary internal roadway.
- (15) Rooftop mechanical equipment shall be screened.
- (16) Wireless antennae shall be screened, appropriately masked or otherwise be "stealthed".
- (17) The streetscape, including any open space, shall be appropriately furnished to facilitate the goals of the PMU District, including the activation of the site for pedestrian use. A

specific palette of street tree, lighting, sidewalk, and furnishing components shall be submitted by an Applicant for site plan approval and shall be approved by the Board of Trustees.

- (18) Signs within the PMU District shall be of varied types, sizes, and styles. A consistent approach to signage that favors expressions of tenant identity is encouraged. Allowed signage types include, but are not limited to, flat mounted signs, awning signs, canopy signs, blade signs, flags and banners, wall signs, window signs, entry embeds, sidewalk signs (menu boards) and temporary signs.
- (19) Applications for site plan approval shall include a sign management plan, which details the types, sizes, locations, and illumination of signs that are proposed to be permitted in the various portions of the PMU site. Signs may be of any durable material and shall be of a high level of craftsmanship. Signs shall be limited to a business' name, logo or three-dimensional symbol and brief descriptive tagline (i.e., restaurant and bar, homemade ice cream). The sign management plan shall be reviewed and subject to the approval of the Board of Trustees.

G. Green Building and Site Planning. The intent of this subsection is to identify new and refer to the existing green building regulations within the Code of the Village of Port Chester. All new development within the PMU District shall adhere to the regulations contained in this subsection.

- (1) Any application for new commercial, mixed-use, or multi-family buildings shall provide a completed Leadership in Energy and Environmental Design for Neighborhood Development (LEED-ND) checklist, Enterprise Green Communities checklist, Institute of Sustainable Infrastructure (ISI) Envision checklist, or equivalent green project checklist acceptable to the Director of Planning and Economic Development or his/her designee.
- (2) All new development shall conform to Chapter 281, Stormwater Management, of the Code of the Village of Port Chester.
- (3) All new development shall conform to the applicable requirements set forth in the most current version of the New York State Stormwater Design Manual, as interpreted by the Village of Port Chester, especially Chapter 5, Green Infrastructure Practices.
- (4) Energy- and water-efficient fixtures and building technologies shall be incorporated that meet the requirements of the New York State Energy Code.
- (5) Pervious paving shall be permitted on all sites.
- (6) Green roofs shall be permitted for all building types.
- (7) The recycling of construction waste shall be required.

#### H. Site Plan Approval

- (1) The Board of Trustees shall be the approving agency for site plan applications and modifications within the PMU District, excluding special exception permits for wireless telecommunication facility only applications.
- (2) The Board of Trustees, in exercising this authority, will follow the procedures and criteria in §345-23(C), (D), and (E), except that a Pre-Submission Conference (§345-23(C)) need not be held if an Environmental Impact Statement had previously been prepared that contemplated a site plan substantially similar to the plan being submitted for approval.

(3) All site plan applications shall adhere to the submission procedures as listed in §345-23(C) and contain the information listed in §345-23(F) and comply with the standards of §345-23(G) and (H).

(4) The Board of Trustees shall refer the site plan application to the Planning Commission for its review and recommendation.

I. Severability. Conflicts with Other Provisions.

(1) If any clause, sentence, paragraph, subdivision, section or other part of this Article shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair or invalidate the remainder of this Article ~~X, Special Exception~~, and it shall be construed to have been the legislative intent to enact this Article without such unconstitutional or invalid parts therein.

(2) If any portion of this Article is found to be in conflict with any other provision of any other local law or ordinance of the Code of the Village of Port Chester, the provision which establishes the higher standard shall prevail.

**Add a new section: §345-59(D)(3) as follows:**

(3) Notwithstanding the above, the Board of Trustees shall have jurisdiction for all applications for all special exception uses within the PMU District, with the exception of wireless telecommunications facilities. When a wireless telecommunication facility is proposed as part of a site plan or site plan amendment and no other use or site plan element is proposed or amended, the Planning Commission shall have jurisdiction pursuant to Article XVIII. When a wireless telecommunication facility is proposed as part of a site plan or site plan amendment and other uses or site plan elements are proposed or amended, the Board of Trustees shall have jurisdiction.

**Amend 345-16, in part, as follows:**

(B)(1). The bonus program is available in the C2 Main Street Business, C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional[, PMU Planned Mixed Use], and DW2 Downtown Design Waterfront Districts. (See Schedule of Regulations for Nonresidence Districts, Attachment 3B.) by special exception only, and is subject to approval by the Village Board of Trustees.

(B)(3). Projects in the C5 Train Station Mixed Use[, ] and C5T Downtown Mixed Use Transitional[, and PMU Planned Mixed Use] Districts are permitted to use both the building height and floor area options. (See Schedule of Regulations for Nonresidence Districts, Attachment 3B.)

(C)(1). In the C2 Main Street Business, C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional[, PMU Planned Mixed Use], and DW2 Downtown Design Waterfront Districts, additional development potential in the form of floor area can be earned for a project when the project includes any of the specified provisions listed herein. The bonus floor area amount is additional to the maximum floor area ratio in the respective district. (See Schedule of Regulations for Nonresidence Districts, Attachment 3B.)

(D)(1). Bonus building height is also earned in the C5 Train Station Mixed Use, and C5T Downtown Mixed Use Transitional[, and PMU Planned Mixed Use] Districts in addition to the bonus floor area achieved through the provisions established in this section. Bonus height is in addition to the maximum building height in the respective district, as established in the Schedule of Regulations for Nonresidence Districts, Attachment 3B. Bonus height is earned by contributing to any of the three provisions specified in § 345-16C(3), (4) and (5) above.

**Amend bulk tables to:**

Include PRD requirements. Add footnote to say that bulk PMU standards apply to whole PMU site.

**Amend §345-2B:**

Add definitions.

**GREEN ROOF**

A building roof that is engineered to be covered with low-maintenance growing plants that: insulate in winter, cool the building in summer, reduce solar absorption, reduce precipitation runoff from roof surfaces, and improve interior heating, ventilating and air conditioning (HVAC) efficiency.

**PERVIOUS PAVING**

A hard surface with load bearing capacity engineered to allow for the passage of water through it. The surface may be comprised of paving blocks with open corners, lattices or edges or asphalt/concrete mixes without "fines."

**PLAZA**

An area predominantly open to the sky that is generally open to the public and used for passive recreational activities and relaxation. Plazas are paved areas typically provided with amenities, such as seating, drinking and ornamental fountains, art, trees, and landscaping for use by pedestrians.”

Remove definition for “Research Institute or Laboratory” and replace with:

**RESEARCH INSTITUTE OR LABORATORY**

A structure that contains research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, or sale of products. Such uses shall not be detrimental to the environment through the release of dust, smoke, fumes, odor, noise, or vibration and shall not create and unsafe risk of fire or explosion given the location of the use, the building in which it is located, and the nature of the surrounding uses and structures.